

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 14 April 2021**b. Date Received:** 14 April 2021**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is general (under honorable conditions). The applicant requests and upgrade to honorable and a change in the narrative reason for separation.

(2) The applicant seeks relief stating they are seeking a change in their discharge in accordance with looking for employment.

**b. Board Type and Decision:** In a records review conducted on 9 August 2024, and by a 5-0 vote, the Board determined the discharge is inequitable. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Drug Abuse) / Army Regulations 635-200, Paragraph 14-12c(2) / JKK / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 3 June 2020**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 29 April 2020

(2) **Basis for Separation:** tested positive for marijuana on 12 March 2020

(3) **Recommended Characterization:** General (Under Honorable Conditions)

(4) **Legal Consultation Date:** 14 May 2020

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** 15 May 2020 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:****a. Date / Period of Enlistment:** 7 February 2017 / 5 years, 26 weeks

**b. Age at Enlistment / Education / GT Score:** 19 / HS Graduate / 105

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92F1O, Petroleum Supply Specialist / 3 years, 3 months, 27 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Iraq (7 February 2019 – 31 October 2019)

**f. Awards and Decorations:** AAM-2, AGCM, NDSM, ASR, OSR, IRCM-CS

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:**

(1) A DA Form 2627-1 (Summarized Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), dated 11 March 2020, reflects the applicant received nonjudicial for, on or about 24 February 2020, without proper authority, willfully damaged military property in violation of Article 108 (Military Property; Loss, Damage, Destruction, Disposition) UCMJ; on or about 2 March 2020, was disrespectful in language towards a noncommissioned officer in violation of Article 91 (Insubordinate Conduct Towards Noncommissioned Officer), UCMJ; and, on or about 2 March 2020, three occurrences of failing to obey a lawful order in violation of Article 92 (Failure to Obey Order or Regulation), UCMJ. Their punishment consisted of extra duty and restriction for 14 days and an oral reprimand. The applicant elected not to appeal.

(2) A DA Form 4856 (Developmental Counseling Form) dated 30 March 2020, reflects the applicant received event oriented counseling from their company commander with the recommendation for Enlisted Administrative Separation. The Key Points of Discussion reflects the company commander is initiating separation proceedings as a result of the applicant testing positive for marijuana during a unit urinalysis. The applicant agreed with the information and signed the form.

(3) A DA Form 3822 (Report of Mental Status Evaluation) dated 2 July 2020 reflects the applicant has no duty limitations due to behavioral health reasons and currently meets behavioral health medical retention standards.

- Section V (Diagnoses) – reflects a Behavioral Health Diagnosis of "Other Problems Related to Employment"
- Section VI (Proposed Treatments) – reflects "No Follow-Up Needed"
- Section VIII (Additional Comments) – reflects the behavioral health provider commented the applicant does not currently have a behavioral condition that causes them to fail retention standards and is cleared for chapter separation at this time

(4) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ) dated 20 April 2020, reflects the applicant received nonjudicial punishment for, between on or about 13 February 2020 and on or about 12 March 2020, wrongfully used marijuana, a Schedule I controlled substance, in violation of Article 112a (Wrongful Use, Possession, Etc., of Controlled Substances), UCMJ. Their punishment consisted of a reduction in rank/grade of specialist/E-4 to private/E-1, forfeiture of \$866.00 pay, extra duty for 45 days, restriction for 30 days, and an oral reprimand. The applicant elected not to appeal.

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE****AR20210008938**

(5) A memorandum, Delta Company, 10th Aviation Regiment, Grey Eagle, 10th Combat Aviation Brigade, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 29 April 2020, the applicant's company commander notified them of their intent to separate them for Misconduct-Abuse of Illegal Drugs, testing positive for marijuana on 12 March 2020. The company recommended the applicant receive a General (Under Honorable Conditions) characterization of service. On that same day, the applicant acknowledged receipt of the foregoing notice and of the rights available to them.

(6) On 14 May 2020, the applicant completed their Election of Rights Regarding Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], and acknowledged that they have been advised by their consulting counsel of the basis for the contemplated action to separate them, and its effects; of the rights available to them; and the effect of any action taken by them in waiving their rights. They elected not to submit statements in their behalf and waived consulting counsel. They understood they may expect to encounter substantial prejudice in civilian life if a General (Under Honorable Conditions) discharge is issued to them and they may be ineligible for many or all benefits as a veteran under both Federal and State laws.

(7) A memorandum, Delta Company, 10th Aviation Regiment, Grey Eagle, 10th Combat Aviation Brigade, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 14 May 2020, the applicant's company commander recommended they be separated from the Army prior to the expiration of their current term of service. The company commander states the applicant's character does not fit Army values. They are not remorseful, nor do they regret their actions. Probable continued drug use without separation.

(8) A memorandum, Headquarter, 277th Aviation Support Battalion, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 14 May 2020, reflects the applicant's battalion commander's recommendation that the applicant be separated from the Army prior to the expiration of their current term of service and their service be characterized as General (Under Honorable Conditions). The battalion commander states "Poor Soldier, Poor Attitude, Drug User."

(9) A memorandum, Headquarters, 10th Mountain Division Sustainment Brigade, subject: Separation Under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 15 May 2020, the separation authority, having reviewed the applicant's separation packet, directed that the applicant be separated from the Army prior to the expiration of current term of service. The separation authority directed the applicant's service be characterized as General (Under Honorable Conditions). The separation authority states after reviewing the rehabilitative transfer requirements they determined the requirements are waived, as the transfer will serve no useful purpose or produce a quality Soldier.

(10) A DD Form 214 (Certificate of Release or Discharge from Active Duty) and DD Form 215 (Correction to DD Form 214) reflects the applicant was discharged on 3 June 2020, with 3 years, 3 months, and 27 days of net active service this period. The DD Form 214 show in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 20 April 2020
- item 18 (Remarks) – in part, MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) –General (Under Honorable Conditions)

- item 26 (Separation Code) – JKK
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – Misconduct (Drug Abuse)

**i. Lost Time / Mode of Return:** None

**j. Behavioral Health Condition(s):**

**(7) Applicant provided:** None

**(8) AMHRR Listed:** Report of Mental Status Evaluation as described in previous paragraph 4h(3).

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Department of Veterans Affairs (VA) letter, reflects the applicant's VA health care has recently changed, as a result, they are enrolled in Priority Group 1 and their unique eligibility factors is shown as 50-percent service connected

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

**a.** Title 10, U.S. Code, Section 1553, (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, Title 10, U.S. Code, Section 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

**b.** Multiple Department of Defense (DoD) Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in

whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to VA determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board) sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Title 10, U.S. Code, Section 1553; and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) effective 19 December 2016 prescribed policies and standards to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. It prescribed the policies, procedures, and the general provisions governing the separation of Soldiers before expiration term of service or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

(1) An Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(2) A General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(3) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

**(4)** Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. Paragraph 14-12c(2) (Abuse of Illegal Drugs is Serious Misconduct), stated, however; relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

**(5)** Chapter 15 (Secretarial Plenary Authority), currently in effect, provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

**e.** Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c(2), misconduct (drug abuse).

**f.** Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DoD Instructions 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

**(1)** RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

**(2)** RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

**(3)** RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

**g.** Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. The ultimate decision regarding separation or retention of abusers is the responsibility of the Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's mission. Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander

should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement.

h. Manual for Courts-Martial, United States (2019 Edition) stated, military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating Article 112a (Wrongful Use, Possession, etc., of Controlled Substances).

#### **8. SUMMARY OF FACT(S):**

a. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

b. A review of the available evidence provides the applicant received nonjudicial punishment for testing positive for marijuana and was involuntary separation from the Army. Their DD Form 214 provides they were discharged with a character of service of general (under honorable conditions) for misconduct (drug abuse). They completed 3 years, 3 months, and 27 days of net active service this period and did not complete their first full term of service of 5 years and 26 weeks.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense; to include abuse of illegal drugs; and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

d. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

#### **9. BOARD DISCUSSION AND DETERMINATION:**

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Mood Disorder (70%SC).

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection establishes his diagnosis of Mood DO began during active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has a BH condition, Mood Disorder, which mitigates some of his misconduct. As there is an association between Mood Disorder, avoidant behaviors, problems with authority figures and self-medication with illicit substances, there is a nexus between his diagnosis of Mood Disorder, his multiple FTRs, his disrespectfulness towards an NCO and his wrongful use of marijuana. Mood DO does not mitigate the offense of willfully damaging government property as it does not affect one's ability to distinguish right from wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **Partial.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's condition or experience outweighed the majority of the listed basis for separation - multiple FTRs, his disrespectfulness towards an NCO and his wrongful use of marijuana. However, Mood DO does not mitigate the offense of willfully damaging government property as it does not affect one's ability to distinguish right from wrong and act in accordance with the right.

b. Prior Decisions Cited: None

c. Response to Contentions: The applicant contends they are seeking a change in their discharge in accordance with looking for employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

d. The Board determined the discharge is inequitable. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14- 12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service based on the following reasons. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Combat, Quality) and concurred with the conclusion of the medical advising official that the applicant's (Mood Disorder) does mitigate the applicant's drug abuse. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable and warranted an upgrade but no change to the RE code due to the service members BH condition.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.



**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE****AR20210008938**

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** Misconduct (Minor Infractions)/JKN
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

**Authenticating Official:**

7/18/2025

**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human  
Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation  
Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral  
Health (Issues)  
OMPF – Official Military  
Personnel File  
PTSD – Post-Traumatic Stress  
Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized  
Discharge  
UOTHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs