

1. **Applicant's Name:** [REDACTED]

- a. **Application Date:** 30 March 2021
- b. **Date Received:** 30 March 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 an upgrade to honorable.

(2) The applicant seeks relief stating they had an undiagnosed mental health condition as they were trying to cope with the stress after two combat deployments. They achieved the rank/grade of sergeant/E-5 and were characterized as a good Soldier even after they tested positive for Tetrahydrocannabinol (THC). This has since affected the way they see themselves and their duty to serve. They hope to obtain gainful employment in desired areas, they can't with a general (under honorable conditions).

(3) Despite their physical ailments, their dedication to serve the country has been unwavering. They hope the supporting documents provide insight about them as an Infantryman and the issues which they did not tend to.

b. **Board Type and Decision:** In a records review conducted on 25 October 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, and the circumstances surrounding the discharge (PTSD diagnosis). 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 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 28 October 2015

c. **Separation Facts:** The applicant's case separation file is void from their Army Military Human Resource Record (AMHRR).

4. **SERVICE DETAILS:**

a. **Date / Period of Enlistment:** 13 January 2011 / 5 years, 16 weeks

b. **Age at Enlistment / Education / GT Score:** 18/ HS Graduate / 102

c. Highest Grade Achieved / MOS / Total Service: E-5 / 11B1O, Infantryman / 4 year, 9 months, 16 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (15 April 2012 – 8 January 2013 and 2 February 2014 – 11 September 2014)

f. Awards and Decorations: ACM-2CS, ARCOM-2, AGCM, NDSM, GWTSM, ASR, NATOMDL

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)) dated 16 April 2015 reflects the applicant received nonjudicial punishment for, between 8 December 2014 to on or about 7 January 2015, wrongfully used marijuana, in violation of Article 112a, UCMJ. Their punishment consisted of a reduction in rank/grade from sergeant/E-5 to specialist/E-5, forfeiture of \$1,175.00 pay for 2 months, and extra duty and restriction for 45 days. The applicant elected not to appeal.

(2) As part of a medical record dated 16 June 2015, the examining physician states they met with the applicant for a supervision of a mental health contact secondary to a command request for evaluation as part of a "chapter separation" recommendation for paragraph 14-12c due to positive urinalysis for Cannabis. The applicant report they had been treated in Army Substance Abuse Program (ASAP) before secondary to excessive alcohol use as well as "Spice" use. Their record reflects this treatment in the fall of 2013 for an Alcohol Related Disorder and Hallucinogen Related Disorder. The applicant was encouraged to return to ASAP and their command was advised to direct them to return to ASAP for additional assessment and possible treatment. All mental health symptoms screens were within normal limits and the applicant declined mental health services.

(3) Headquarters, U.S. Army Garrison, Fort Bliss Orders 294-0022 dated 21 October 2015, reassigned the applicant to the U.S. Army transition point for transition processing with a date of discharge of 28 October 2015.

(4) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 28 October 2018, with 4 years, 9 months, and 16 days of net active service this period. The DD Form 214 show in –

- item 4a (Grade, Rate or Rank) – Specialist
- item 4b (Pay Grade) – E-4
- item 12i (Effective Date of Pay Grade) – 16 April 2015
- item 18 (Remarks) – MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) –General (Under Honorable Conditions)
- item 28 (Narrative Reason for Separation) – Misconduct (Drug Abuse)

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Two Department of Veterans Affairs (VA) Character Reference letters reflecting their statements that the applicant is diagnosed with PTSD, Chronic and Alcohol Abuse. The applicant's VA Rating Decision does not list PTSD; however, pages 2 and 4 are not in evidence for review.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Medical Record
- VA Decision Letter with attached Rating Decision
- VA Medical Center Magnetic Resonance Imaging Results
- VA Pharmacy Medicine Labels
- two VA Character Reference Letter

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) prescribes 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 prescribes 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 waivable and nonwaivable 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 waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable 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. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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 an administrative irregularity in the proper retention of records, specifically the AMHRR is void of the case files for approved separation. Due to the lack of evidence the specific facts and circumstances surrounding the misconduct (drug abuse) that led to their discharged under the provision on Army Regulation 635-200, paragraph 14-12c(2) are unknown. Notwithstanding the absence of records, the DD Form 214, provides the applicant was discharged with a character of service of general (under honorable conditions) for misconduct (drug abuse). They completed 4 years, 9 months, and 16 days of their 5-year, 16-week contractual active duty obligation and did not complete their first full term of service.
- 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.** The applicant's AMHRR does not reflect documentation of a diagnosis of PTSD nor did the applicant provide evidence of these diagnoses during their military service. A VA Rating Decision does not reflect service connection for PTSD; however, two VA Character Reference letters reflect a diagnosis of PTSD.
- e.** 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: PTSD(70%SC).
 - (2)** Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for PTSD (70%) establishes nexus with active military service.
 - (3)** Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has a mitigating BH condition, PTSD. As there is an association between PTSD and self-medication with alcohol and/or illicit substances, there is a nexus between his diagnosis of PTSD and his wrongful use of marijuana.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's condition or experience outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends they had an undiagnosed mental health condition as they were trying to cope with the stress after two combat deployments. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's drug abuse basis for separation.

(2) The applicant contends they achieved the rank/grade of sergeant/E-5 and were characterized as a good Soldier even after they tested positive for Tetrahydrocannabinol (THC). This has since affected the way they see themselves and their duty to serve. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's drug abuse basis for separation.

(3) The applicant contends they hope to obtain gainful employment in desired areas, they can't with a general (under honorable conditions). The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

(4) The applicant contends despite their physical ailments, their dedication to serve the country has been unwavering. They hope the supporting documents provide insight about them as an Infantryman and the issues which they did not tend to. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's drug abuse basis for separation.

d. The Board determined the discharge is inequitable based on the applicant's length and quality of service, and the circumstances surrounding the discharge (PTSD diagnosis). 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 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 (PTSD) does mitigate the applicant's positive UA (drug abuse). As there is an association between PTSD and self-medication with alcohol and/or illicit substances, there is a nexus between his diagnosis of PTSD and his wrongful use of

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marijuana. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable.

(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. The RE code will remain the same due to the applicant's service limiting BH condition.

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:** AR 635-200

Authenticating Official:

6/23/2025



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