

1. Applicant's Name: [REDACTED]**a. Application Date:** 27 May 2021**b. Date Received:** 27 May 2021**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant Requests: The current characterization of service for the period under review is under other than honorable conditions. The applicant requests upgrade to honorable and change to narrative reason for separation to Secretarial Plenary Authority.

b. Applicant Contention(s)/Issue(s): The applicant contends good service. The applicant's counsel requests relief contending, in effect the command violated regulation and policy as well as disparaged the applicant's rights. Counsel states the evidence shows a clear material error or injustice. The applicant's command violated regulations governing the applicant's development and administrative processing, using 14-12c (2) to bypass required counseling and rehabilitation despite relying on 14-12(b) criteria. The command abused its discretion by focusing solely on adverse incidents while neglecting its duty to mentor and address the applicant's medical and mental-health needs. Selective application of regulations should not be given the benefit of the doubt, and this injustice must be corrected. Counsel argues the discharge was improper and/or inequitable for the following reasons:

- The command violated regulations in assessing the applicant
- Command regulatory violations resulted in inadequate counseling and leadership
- The inadequate counseling and leadership violated administrative discharge procedure
- Administrative procedural defects violated the applicant's enumerated rights
- The applicant's UOTH does not reflect the characterization of the applicant's entire service
- Because the command violated Army Regulations to achieve its goal, the applicant's characterization of service is achieved through an inequitable process
- The command considered only adverse incidents outside the scope of the chapter procedure it utilized
- The applicant was medically processing for a work-related injury; their nondeployable status was unfairly scrutinized by the command
- The applicant's lack of leadership and guidance resulted in them turning to a misguided self-medicating path
- The command's defective and ineffective rehabilitation efforts of the applicant were not genuine and violated regulations

c. Board Type and Decision: In a records review conducted on 3 March 2026, and by a 3-0 vote, the Board determined the discharge is inequitable and too harsh based on the applicant's time elapsed since discharge and command's failure to attempt rehabilitation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3. Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Drug Abuse) / AR 635-200, Chapter 14-12c (2) / JKK / RE-4 / Under Other than Honorable Conditions

b. Date of Discharge: 19 December 2011

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 13 October 2011

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant tested positive for marijuana on 06 July 2011; posted an inappropriate video on the internet of the applicant and friends engaging in simulated sexual and violent acts with a blow up doll while intoxicated; while intoxicated the applicant was further disorderly by destroying government property in the barracks room.

(3) Recommended Characterization: Under Other than Honorable Conditions

(4) Legal Consultation Date: 18 October 2011

(5) Administrative Separation Board: On 18 October 2011, the applicant waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than general (under honorable conditions). On 30 November 2011, the applicant voluntarily and unconditionally waived the right to a separation board.

(6) Separation Decision Date / Characterization: 1 December 2011 / Under Other than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment Under Review: 30 March 2010 / 3 years, 18 weeks

b. Age at Enlistment / Education / GT Score: 23 / HS Graduate / 94

c. Highest Grade Achieved / MOS / Total Service: E-3 / 13B1O, Cannon Crewmember / 1 year, 8 months, 20 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Alaska

f. Awards and Decorations: NDSM, GWOTSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) 11 Developmental Counseling Forms document instances of the applicant being late to formation, missing appointments, video posted on the internet, losing an identification card, and alcohol related incident.

(2) FG Record of Proceedings under Article 15, Uniform Code of Military Justice, [date], indicates the applicant was found to have been on or about 10 June 2011, drunk and disorderly and on or about 14 June 2011, without authority, fail to go at the time prescribed to appointed place of duty. The imposed punishment included a reduction to E-2, forfeiture of \$822 pay per month for two months, along with 15 days of extra duty and restriction, and oral reprimand.

(3) Defense counsel memorandum dated 18 October 2011, shows defense counsel reviewed the packet and there was no evidence supporting the claim that the applicant destroyed government property while intoxicated. There is also no charge under the UCMJ for someone posting a distasteful video of themselves on "YouTube". Had the applicant been wearing a uniform, the argument could be made that this was an Article 134 offense. However, this is not the case and for something to be classified misconduct, it has to be defined somewhere as being some type of misconduct. Accordingly, the applicant has elected to submit a conditional waiver of said right to a Board in return for him receiving an under honorable condition characterization of service. This is the same characterization that is the current precedent for 1-25 SBCT for marijuana use.

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

j. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See **"Board Discussion and Determination"** for Medical Advisor Details.

(1) **Applicant provided:** Report of Mental Status Evaluation (MSE), 3 August 2011, indicates the applicant had adjustment disorder with emotional features and was cleared for any administrative actions the command deemed appropriate. The applicant demonstrated the ability to understand and participate in administrative proceedings, appreciated the difference between right and wrong, and met medical retention requirements. PTSD and mTBI screenings were conducted, but the conditions were either absent or did not meet AR 40-501 criteria for a medical evaluation board.

(2) **AMHRR Listed:** MSE as described in 4j (1).

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Legal brief with all listed enclosures 1 thru 16.

6. POST SERVICE ACCOMPLISHMENTS: The applicant states the applicant is drug and alcohol free for years.

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

a. Section 1553, Title 10, United States Code (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, 10 USC 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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

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 DODI 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 non-waiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

- 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.
- 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.
- RE-4 Applies to: Person separated from last period of service with a non-waiverable 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 635-200 (Active Duty Enlisted Administrative Separations) provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(a) Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(b) Paragraph 3-7a states 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.

(c) Paragraph 3-7b states 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.

(2) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(a) Paragraph 14-3 prescribes 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.

(b) Paragraph 14-12c (2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing 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 under paragraph 14-12a or 14-12b as appropriate.

h. 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, misconduct (drug abuse).

8. SUMMARY OF FACT(S): Standard of Review. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 14, paragraph 14-12c (2), by reason of Misconduct (Drug Abuse), with a characterization of service of under other than honorable conditions.

c. The applicant request the Army should change the narrative reason for the discharge. Under Chapter 14, paragraph 14-12c (2), of AR 635-200, the Army separated the applicant with an under other than honorable conditions discharge. Army Regulations designate "Misconduct (Drug or Alcohol Abuse)," as the narrative reason for discharge under this provision and assign the separation code "JKK." Army Regulation 635-8 (Separation Processing and Documents) governs how officials prepare the DD Form 214. This regulation mandates that block 28 must list the narrative reason for separation, and block 26 must show the corresponding separation code, both as specified in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation prohibits any deviation and does not allow officials to enter any other reason.

d. The applicant contends good service. The Board evaluated the applicant's service accomplishments and overall quality of service in accordance with DODI 1332.28.

e. The applicant's counsel contends the command violated multiple regulations and policies as well as disparaged the applicant's rights. The AMHRR does not indicate or provide evidence of arbitrary or capricious actions by the command. The applicant's counsel argues the discharge was inequitable punishment for the committed offense or offenses. Army Regulation 635-200 establishes the separation policy to uphold readiness by enforcing standards of performance and conduct. Soldiers who fail to meet discipline and performance expectations or lack potential for continued military service face separation to maintain morale and operational effectiveness. Evidence in the AMHRR confirms the applicant's discharge was administrative under AR 635-200, Chapter 14-12c (2).

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: Adjustment Disorder with mixed emotional features (not chronic).

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant was diagnosed with MH conditions after discharge yet is not service connected for MH conditions, provided no evidence of MH therapy after discharge, and stopped taking medications in 2023.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant asserts that his misconduct was related to his mental health condition. While in service, the applicant attended MH therapy, medication management, and SUDCC IOP between June-December 2011 with diagnoses of Adjustment Disorder with mixed emotional features and Alcohol Abuse. Applicant reported MH symptoms and thoughts of suicide dating back to high school to MH providers. During the applicant's Chapter 14 MH MSE, the applicant informed the provider that they knew smoking marijuana was illegal and consciously stopped attending SUDCC because they referred the applicant as an alcoholic. Provider stated that the applicant's judgment was adequate and did not seem impulsive. The applicant was not given a MH profile and was considered medically fit for service. After service, VA records were void of MH therapy, but applicant did continue psychotropic medications (Wellbutrin, Prazosin, trazodone) until August 2023. Applicant is not service connected by the VA. While there is evidence the applicant had mood issues, the symptoms were not sufficient to meet criteria for a Depressive Disorder or Anxiety Disorder while in service. There is insufficient evidence the applicant's Adjustment Disorder was of a severity to impair judgement or cognition as the applicant verbalized at the time that using THC was wrong. Finally, it is unclear to what degree the applicant's mood symptoms were impacted by or exacerbated by the applicant's alcohol and marijuana abuse. Thus, a nexus between mental health conditions and misconduct was not found.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's Adjustment Disorder with mixed emotional features outweighed the basis for applicant's separation – one-time marijuana use, posted an inappropriate video on the internet of the applicant and friends engaging in simulated sexual and violent acts with a blow up doll while intoxicated, while intoxicated the applicant was further disorderly by destroying government property in the barracks room – for the aforementioned reason(s).

b. Prior Decisions Cited: **N/A**

c. Response to Contention(s): The applicant contends good service and counsel contends the command violated multiple regulations and policies as well as disparaged the applicant's rights. The Board recognizes and appreciates the applicant's service, considered this contention during board proceedings along with the totality of the applicant's service record, and determined that the applicant's time elapsed since discharge and command's failure to attempt rehabilitation outweighed the applicant's one-time marijuana use, posted an inappropriate video on

the internet of the applicant and friends engaging in simulated sexual and violent acts with a blow up doll while intoxicated, while intoxicated the applicant was further disorderly by destroying government property in the barracks room and relief was warranted.

d. The Board determined the discharge is inequitable and too harsh based on the applicant's time elapsed since discharge and command's failure to attempt rehabilitation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3. However, the applicant may request a telephonic personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

e. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

(2) The Board voted to change the applicant's characterization of service to Honorable based on the applicant's time elapsed since discharge and command's failure to attempt rehabilitation. Thus, the prior characterization is no longer appropriate.

(3) 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 Board decided that while the totality of the record outweighed the misconduct, it did not rise to the level where the requested Secretarial Authority would be appropriate.

(4) The Board voted to change the RE code to RE-3.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

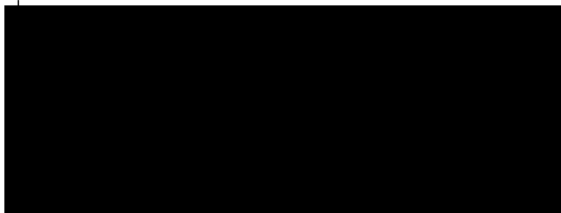
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10. BOARD ACTION DIRECTED:

- 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: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

3/10/2026



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
FTR – Failure to Report

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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs