

1. Applicant's Name: [REDACTED]**a. Application Date:** 27 February 2021**b. Date Received:** 3 March 2021**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant's Requests and Issues: The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

b. The applicant seeks relief contending, in effect, while in the military the applicant had a bad mental breakdown and handled it in the wrong manner. The applicant has made tremendous changes to their character as a productive role model in society. Upgrading their discharge will allow the applicant to utilize benefits for schooling and fulfilling their goal to becoming a nurse with the hope to later return to the military or continue to productively serve the community. The applicant understands their mistakes and regrets making them. The applicant is attending school to become a registered nurse.

c. Board Type and Decision: In a records review conducted on 12 July 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Anxiety Disorder outweighing the applicant's illegal substance abuse, FTR, and short-term AWOL offenses. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to 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.

Please see Section 9 of this document for more detail regarding the Board's decision.

(Board member names available upon request)

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 26 August 2015

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 31 July 2015

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant, between on or about 22 March 2015 and on or about 22 April 2015, wrongfully used marijuana. Also, the applicant on or about 23 and 24 June, and 9 July 2015 absent themselves from their unit. In addition, the applicant also failed to report at the time prescribed to their appointed place of duty on multiple occasions.

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

(4) Legal Consultation Date: 5 August 2015

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 11 August 2015 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 11 February 2013 / 4 years

b. Age at Enlistment / Education / GT Score: 20 / High School Graduate / 102

c. Highest Grade Achieved / MOS / Total Service: E-3 / 25U10, Signal Support System Specialist / 2 years, 6 months, and 5 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea / None

f. Awards and Decorations: AAM, NDSM, KDSM, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Report of Medical Examination, 4 February 2015, the examining medical physician noted the applicant's medical conditions in the comments section: Elevated blood pressure.

(2) Three Developmental Counseling Forms, for Army Physical Fitness Test failure, missing an appointment (behavioral health), and failure to be at appointed place of duty.

(3) Electronic Copy of DD Form 2624, 8 May 2015, shows the applicant tested positive for THC 111 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 22 April 2015.

(4) Six Developmental Counseling Forms, for multiple failures to report and failures to obey an order or regulation, positive urinalysis, and flag notification.

(5) FG Article 15, 3 June 2015, for wrongfully using marijuana between on or about 22 March 2015 and 22 April 2015. The punishment consisted of a reduction to E-1; forfeiture of \$500 pay per month for 2 months; and extra duty for 45 days.

(6) Developmental Counseling Form, for failure to come to work on 22 June 2015.

(7) On 23 June 2015, the applicant's duty status changed from present for duty (PDY) to AWOL, effective 23 June 2015 (0630 hours).

(8) On 23 June 2015, the applicant's duty status changed from AWOL to PDY, effective 23 June 2015 (1050 hours).

(9) Developmental Counseling Form, for failure to report and failure to obey an order or regulation on 23 June 2015.

(10) On 24 June 2015, the applicant's duty status changed from PDY to AWOL, effective 24 June 2015 (1300 hours).

(11) On 24 June 2015, the applicant's duty status changed from AWOL to PDY, effective 24 June 2015 (1320 hours).

(12) Army Substance Abuse Program (ASAP) Enrollment form page 1 of 2 only, shows the applicant was command-referred in the ASAP on unknown date.

(13) Six Developmental Counseling Forms, for multiple failures to report and failures to obey an order or regulation.

(14) On 10 July 2015, the applicant's duty status changed from PDY to AWOL, effective 9 July 2015 (0730 hours).

(15) On 10 July 2015, the applicant's duty status changed from AWOL to dropped from rolls (DFR), effective 10 July 2015 (0730 hours).

(16) On 23 July 2015:

(a) The applicant's duty status changed from DFR to returned to military control (RMC), effective 20 July 2015 (0800 hours).

(b) The applicant's duty status changed from RMC to PDY, effective 20 July 2015 (0800 hours).

(17) The applicant's Enlisted Record Brief, 27 August 2015, shows the applicant was flagged for adverse action (AA), effective 9 July 2015, involuntary separation/field initiated (BA), effective, 17 June 2015, and APFT failure (JA), effective 16 March 2015; was ineligible for reenlistment due to pending separation (9V). The Assignment Eligibility Availability (AEA) code shows AEA code "C" which is temporarily ineligible for reassignments due to medical, convalescence, confinement due to trial by court martial, enrollment in Track III ASAP, or local bar to reenlistment. The applicant was reduced from E-3 to E-1, effective 3 June 2015.

i. **Lost Time / Mode of Return:** 11 days: AWOL, 9 July 2015 - 19 July 2015 / Returned to Duty

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

(1) **Applicant provided:** VA Benefits Letter, 6 September 2023, showing the applicant was rated 60 percent disabled (50 percent for unspecified anxiety disorder with cannabis use disorder).

(2) **AMHRR Listed:** Report of Mental Status Evaluation, 5 February 2015, shows the applicant was psychiatrically cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and TBI. These conditions were either not present or if present, did not meet AR 40-501 criteria for a medical evaluation board. The applicant was diagnosed with occupational problem.

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Two DD Forms 293; two character letters; Consulate Healthcare Coversheet (missing five out of six pages); VA Rating Decision; and VA Benefits letter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is attending school to become a registered nurse.

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 PTSD, 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 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 Department of Veterans Affairs (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; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(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) 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.

(4) Paragraph 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(5) 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.

(6) 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.

(7) Chapter 15 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 (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 (Certificate of Release or Discharge from Active Duty). 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).

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 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.

8. SUMMARY OF FACT(S): 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 AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's DD Form 214 shows the applicant served 2 years, 6 months, and 5 days during which the applicant served 11 months in Korea. The applicant received 18 counselings for misconduct and a FG Record of Proceedings under Article 15, UCMJ, for wrongfully using marijuana. The applicant was discharged on 26 August 2015 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 general (under honorable conditions).

c. The applicant contends, in effect, while in the military the applicant had a bad mental breakdown and handled it in the wrong manner.

(1) The applicant provided a VA Benefits Letter, 6 September 2023, showing the applicant was rated 60 percent disabled (50 percent for unspecified anxiety disorder with cannabis use disorder).

(2) The AMHRR shows the applicant underwent a mental status evaluation Report of Mental Status Evaluation on 5 February 2015 which shows the applicant was psychiatrically cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant was diagnosed with occupational problem.

d. The applicant contends, in effect, the applicant has made tremendous changes to their character as a productive role model in society. The applicant is attending school to become a registered nurse. Upgrading their discharge will allow the applicant to utilize benefits for schooling and fulfilling their goal to becoming a nurse with the hope to later return to the military or continue to productively serve the community. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the VA for further assistance. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

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: the applicant was diagnosed in-service with an Adjustment Disorder. Post-service, the applicant is service connected for Anxiety Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant was diagnosed in-service with an Adjustment Disorder, but service connected for anxiety symptoms starting in 2014.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that while the applicant initially reported marijuana use secondary to marital issues and being home with access due to being with the wrong crowd, it is more likely than not that the applicant used to manage anxiety symptoms starting in 2014 for which there is service-connection. Additionally, the FTRs and short AWOL in the basis is noted to be secondary to use, thus also mitigated as a substance related behavior.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board

determined that the applicant's Anxiety Disorder outweighed the applicant's illegal substance abuse, FTR, and short-term AWOL offenses.

b. Response to Contention(s):

(1) The applicant contends, in effect, while in the military the applicant had a bad mental breakdown and handled it in the wrong manner. The Board liberally considered this contention and determined that the applicant's Anxiety Disorder outweighed the applicant's illegal substance abuse, FTR, and short-term AWOL offenses. Therefore, a discharge upgrade is warranted.

(2) The applicant contends the applicant has made tremendous changes to their character as a productive role model in society. The applicant understands their mistakes and regrets making them. The applicant is attending school to become a registered nurse. Upgrading the discharge will allow the applicant to utilize benefits for schooling and fulfilling their goal to becoming a nurse with the hope to later return to the military or continue to productively serve the community. The Board considered the applicant's post-service accomplishments and goals but ultimately did not address this contention due to awarding an upgrade based on medical mitigation.

c. The Board determined the discharge is inequitable based on the applicant's Anxiety Disorder outweighing the applicant's illegal substance abuse, FTR, and short-term AWOL offenses. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to 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.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Anxiety Disorder outweighed the applicant's illegal substance abuse, FTR, and short-term AWOL offenses. Thus, the prior characterization is no longer appropriate.

(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.

(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: AR 635-200

Authenticating Official:

3/18/2025



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