

1. Applicant's Name: [REDACTED]**a. Application Date:** 14 December 2020**b. Date Received:** 4 January 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 contending, the decision to discharge them was based on one isolated incident. They served from 2013 to 2017 in the Army National Guard (ARNG) and on active duty with no incidents or infractions. They were told by their leadership to prioritize training over mental health and substance abuse counseling appointments before and after there were hospitalized for suicidal ideation. They self-enrolled into the Army Substance Abuse Program (ASAP) due to alcohol and drug abuse to find coping skills and start sobriety, prior to testing positive on a urinalysis. They did not expect going through a divorce to be so difficult. While on Active Duty, their counselor put them on four different medications that altered their mood, sleep, appetite, and a counteractive medication to fight fatigue and mitigate anxiety attacks due to other medications. Their medications made them incoherent, sluggish, unable to focus, and hindered their ability to be an affective Soldier and a leader to their peers.

(3) Since their discharge they have paid of their debt, earned certificates of training and are currently sober for eight months. They are currently diagnosed with severe depression due to being military police in the Army, their unhealthy divorce, and physical ailments. They would like an upgrade of their character of service to honorable to be able to further education and provide for their child.

b. Board Type and Decision: In a records review conducted on 11 April 2025, and by a 5-0 vote, the board determined that the discharge was inequitable based on the applicant's in service diagnosis of Major Depressive DO mitigating the applicant's misconduct - abuse of illegal drugs. 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.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Drug Abuse) / Army Regulations 635-200, Paragraph 14-12c (2) / JKK / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 16 April 2020

c. Separation Facts: The applicant's case separation file is not in evidence for review from their Army Military Human Resource Record (AMHRR).

4. SERVICE DETAILS:

- a. **Date / Period of Reenlistment:** 27 June 2017 / 3 years
- b. **Age at Enlistment / Education / GT Score:** 23 / HS Graduate / 100
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 31B1O, Military Police / 6 years, 10 months, 11 days
- d. **Prior Service / Characterizations:** ARNG (6 June 2013 – 26 June 2017) / Honorable
- e. **Overseas Service / Combat Service:** Korea / None
- f. **Awards and Decorations:** NDSM, KSM, ASR, OSR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 16 April 2020, with 2 years, 9 months, and 20 days of net active service this period. The DD Form 214 show in –

- item 18 (Remarks) – in part, MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 25 (Separation Authority) – Army Regulation 635-200, Paragraph 14-12c (2)
- item 27 (Reentry Code) – RE-3
- item 28 (Narrative Reason for Separation) – Misconduct (Drug Abuse)

(2) An Enlisted Record Brief, dated 17 April 2020, reflects the applicant's suspension of favorable personnel actions (Flag) for Abuse Adverse Action on 24 October 2019, and for Drug Abuse Adverse Action and for Involuntary Separation on 19 December 2019.

- i. **Lost Time / Mode of Return:** NA

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

(1) **Applicant provided:** Service Treatment Record reflecting diagnoses of “Other problems related to employment,” “Disruption of family by separation and divorce,” Alcohol Dependence, Cannabis Use, and one occurrence of suicidal ideations.

(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), with two letters
- excerpts of Service Treatment Record
- Personal Statement to Separation Authority
- Certificate of Completion – Center of Fathering
- three 3rd Party Statements
- Debt Resolution Documents

- District Court Final Orders and Decree of Dissolution
- Apartment Lease Contracts
- six Certificates of Training

6. POST SERVICE ACCOMPLISHMENTS: Certificate of Membership – International Association of Certified Home Inspectors and Certificates of Completions – Information Technology

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, set policies, standards, and procedures 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 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 an administrative irregularity in the proper retention of records, specifically the AMHRR case files for approved separation is not in evidence for review. The applicant's AMHRR does contain a properly constituted DD Form 214, which was authenticated by the applicant's signature. The DD Form 214 indicates the applicant was discharged with a character of service of General (Under Honorable Conditions) for misconduct (serious offense). They completed 2 years, 9 months, and 20 days of net active service this period; however, the applicant did not complete their contractual enlistment obligation of 3 years.

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 other mental health diagnoses during their military service. The applicant provide excerpts of their Service Treatment Record reflecting diagnoses of "Other problems related to employment," "Disruption of family by separation and divorce," Alcohol Dependence, Cannabis Use, and one occurrence of suicidal ideations.

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: Major Depressive DO (MDD-70% service connected).

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for MDD establishes nexus with active 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, MDD. As there is an association between MDD and self-medication with illicit drugs and/or alcohol, there is a nexus between the applicant's diagnosis of MDD 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 opine, the board

determined that the applicant's MDD outweighed the applicant's medically mitigated misconduct (drug abuse).

b. Response to Contention(s):

(1) The applicant contends the decision to discharge them was based on one isolated incident. They served from 2013 to 2017 in the Army National Guard (ARNG) and on active duty with no incidents or infractions.

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 Major Depressive DO outweigh the misconduct (drug abuse).

(2) The applicant contends they were told by their leadership to prioritize training over mental health and substance abuse counseling appointments before and after there were hospitalized for suicidal ideation. They self-enrolled into the ASAP due to alcohol and drug abuse to find coping skills and start sobriety, prior to testing positive on a urinalysis.

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 Major Depressive DO outweigh the misconduct (drug abuse).

(3) The applicant contends while on Active Duty, their counselor put them on four different medications that altered their mood, sleep, appetite, and a counteractive medication to fight fatigue and mitigate anxiety attacks due to other medications. Their medications made them incoherent, sluggish, unable to focus, and hindered their ability to be an affective Soldier and a leader to their peers.

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 Major Depressive DO outweigh the misconduct (drug abuse).

(4) The applicant contends since their discharge they have paid off their debt, earned certificates of training and are currently sober for eight months.

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 Major Depressive DO outweigh the misconduct (drug abuse).

(5) The applicant contends they are currently diagnosed with severe depression due to being military police in the Army, their unhealthy divorce, and physical ailments.

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 Major Depressive DO outweigh the misconduct (drug abuse).

(6) The applicant contends they would like an upgrade of their character of service to honorable to be able to further education and provide for their child.

The board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance. The board does not grant relief to gain employment or enhance employment opportunities.

c. The board determined that the discharge was inequitable based on the Applicant's in service diagnosis of Major Depressive DO mitigating the applicant's misconduct (drug abuse). 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,

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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 was 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 Major Depressive DO outweigh the misconduct (drug abuse). Thus, the prior characterization is no longer appropriate.

(2) The board voted to change the narrative reason for discharge to Misconduct (Minor Infractions) under the same rationale. 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, paragraph 14-12a

Authenticating Official:

4/24/2025



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