

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 20 January 2021**b. Date Received:** 27 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 Under Other Than Honorable Conditions. The applicant requests an upgrade of their character of service, a change of their separation code and the narrative reason for separation.

(2) The applicant seeks relief contending they are truly sorry for the way their Army career ended. They have injuries to their hip and a broken hand when they were discharged. They were going to Alcohol Anonymous while battling suicide. This discharge upgrade will allow them to receive Department of Veterans Affairs (VA) benefits as well as treatment for their injuries. They need help to better themselves and possible reentry into the service.

**b. Board Type and Decision:** In a records review conducted on 16 May 2025, and by a 3-2 vote, the Board determined that the discharge was too harsh and the applicant's length and overseas service outweighed the misconduct. As a result, the discharge is inequitable. Accordingly, the Board voted to grant relief in the form of an upgrade of the characterization of service to General (Under Honorable Conditions). Please see Section 9 of this document for more detail regarding the Board's decision.

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct, (Serious Offense) / Army Regulation 635-200, Paragraph 14-12C / JKQ / RE-3 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 7 May 2011

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separation:** 6 April 2011

(2) **Basis for Separation:** received a Field Grade Article 15 for wrongfully possessing the intoxicating substance known as "Spice" on or about 19 January 2011. Received a Field Grade Article 15 on 16 February 2011 for willfully damaging a M109A6 Paladin, property of the United States government, by cutting the communication wires inside of it.

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

(4) **Legal Consultation Date:** 6 April 2011

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

(6) **Separation Decision Date / Characterization:** 18 April 2011 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 22 February 2010 / 3 years, 18 weeks
- b. **Age at Enlistment / Education / GT Score:** 25 / HS Graduate / 96
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / 13B1O, Cannon Crewmember / 1 year, 2 months, 16 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** Korea / None
- f. **Awards and Decorations:** NDSM, GWTSM, KDSM, ASR
- 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 19 January 2011 reflects the applicant received nonjudicial punishment in that they did, at or near Camp Casey, Republic Korea, on or about 30 November 2010, without proper authority, willfully damaged by cutting communication wires of a M109A6 Paladin of a value of about \$1,337.12, military property of the United States, in violation of Article 108 (Military Property, Damage), UCMJ. Their punishment consisted of a reduction in rank/grade from private two/E-2 to private/E-1, forfeiture of \$723.00 pay for two months, and extra duty and restriction for 45 days. The applicant elected to not to appeal.

(2) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ) dated 15 March 2011 reflects the applicant received nonjudicial punishment for, in that they did, at or near Camp Hover, Republic of Korea, on or about 19 January 2011, violated a lawful general order, by wrongfully possessing the intoxicating substance "Spice," in violation of Article 92 (Failure to Obey Order, Regulation), UCMJ. Their punishment consisted of a reduction in rank/grade from private two/E-2 to private/E-1, forfeiture of \$733.00 pay for two months, and extra duty and restriction for 45 days. The applicant elected to appeal but did not submit additional matters. On 16 March 2011, the reviewing judge advocate considered the appeal and stated the proceedings were conducted in accordance with law and regulation and the punishments imposed were neither unjust nor disproportionate to the offense committed. On 16 March 2011, the brigade commander denied the applicant's appeal.

(3) A DA Form 3822 (Report of Mental Status Evaluation) 23 February 2011 reflects the applicant was evaluated at the commander's request in accordance with regulations pertaining to separation under Army Regulation 635-200, paragraph 14-12c, Commission of a Serious Offense. The applicant does not meet criteria for Traumatic Brain Injury (TBI) or Post Traumatic Stress Disorder (PTSD) after screening. No contra-indication to administrative action as deemed appropriate by command. Results of the evaluation show the applicant is responsible for their behavior, has the ability to distinguish right from wrong, and possesses sufficient mental capacity to participate in administrative proceedings. There is no psychiatric reason to preclude a paragraph 14-12c separation.

(4) A memorandum, Bravo Battery, 1st Battalion, 15th Field Artillery, 1st Brigade Combat Team, subject: Separation under Army Regulation 635-200, Paragraph 14-12c,

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE****AR20210011388**

Commission of a Serious Offense, (Applicant), undated, reflects the applicant's company commander notified the applicant of initiating action to separate them for Commission of a Serious Offense. The reason for the proposed action is described above in paragraph 3c(2). The company commander stated they are recommending the applicant receive a General (Under Honorable Conditions) characterization of service. On 6 April 2011 the applicant acknowledge receipt of the Notification of Separation and of the rights available to them.

(5) In the applicant's memorandum, subject: Election of Rights Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, (Applicant), dated 6 April 2011, the applicant acknowledged they have been advised by their consulting counsel of the basis for the contemplated action to separate them and its effects; of the rights available to them, and of the effect of any action taken by them in waiving their rights. They elected not to submit statement in their own behalf and waived consulting counsel. They understood they may expect to encounter substantial prejudice in civilian life if a general (under honorable conditions) is issued to them. They further understand that as the result of issuance of a discharge Under Other Than Honorable Conditions they may be ineligible for many or all benefits as a veteran under both Federal and State laws.

(6) A memorandum, Headquarters, 1st Battalion, 15th Field Artillery, 1st Brigade Combat Team, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, (Applicant), undated, reflects the applicant's battalion commander's recommendation to separate the applicant from the U.S. Army prior to their current term of service. They recommended the applicant's service be characterized as Under Other Than Honorable Conditions.

(7) A memorandum, Headquarters, 1st Brigade Combat Team, 2nd Infantry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, (Applicant), dated 11 April 2011, reflects the applicant's brigade commander's recommendation to separate the applicant from the U.S. Army prior to their current term of service. They recommended the applicant's service be characterized as Under Other Than Honorable Conditions.

(8) A memorandum, Headquarters, 2nd Infantry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, (Applicant), dated 18 April 2011, the separation directed the applicant be separated from the Army prior to the expiration of their current term of service. They directed the applicant directed the applicant will be furnished an Under Other Than Honorable Conditions characterization of service.

(9) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 7 May 2011, with 1 year, 2 months, and 16 days of net active service this period. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 16 February 2011
- item 18 (Remarks) – in part, Member has not completed first full term of service
- item 28 (Narrative Reason for Separation) – Misconduct, (Serious Offense)

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

j. **Behavioral Health Condition(s):** None

**5. APPLICANT-PROVIDED EVIDENCE:**

- two DD Forms 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Radiology Result

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with 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 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; 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), dated 17 December 2009, 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. Readiness is promoted by maintaining high standards of conduct and performance.

**(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. 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. Paragraph 14-12c (Commission of a Service Offense), stated a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

**(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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c, misconduct (serious offense).

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 Instruction 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. Manual for Courts-Martial, United States (2008 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 the following, Article 108 (Military Property, Damage), Article 92 (Failure to Obey Order, Regulation) and 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 DoD Instruction 1332.28.

b. A review of the available evidence provides the applicant received nonjudicial punishment under the provisions of Article 15, UCMJ for violations of Article 108 (Military Property, Damage) and Article 92 (Failure to Obey Order, Regulation). Their DD Form 214 provides they were discharged with a character of service of Under Other Than Honorable Conditions for misconduct (serious offense). They completed 1 year, 2 months, and 16 days of net active service this period; however, they did not complete their 3-year, 18-week enlistment obligation.

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 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 mental health diagnosis nor did the applicant provide evidence of a mental health diagnosis during their military service.

e. Published DoD 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: Adjustment DO with depressed mood.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found diagnosis of Adjustment DO with depressed mood was made during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there are no mitigating BH conditions. While on active duty, the applicant was diagnosed with Adjustment DO with depressed mood and suicidal ideation. Record review indicates that the applicant's BH diagnosis arose as a result of their misconduct and, as such, cannot mitigate said misconduct.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition, Adjustment Disorder with depressed mood and suicidal ideation did not outweigh the basis of separation.

b. Response to Contention(s):

(1) The applicant contends they are truly sorry for the way their Army career ended. They need help to better themselves and possible reentry into the service. They have injuries to their hip and a broken hand, when they were discharged. They were going to Alcohol Anonymous while battling suicide. The applicant states that a discharge upgrade will allow them to receive VA benefits as well as treatment for their injuries.

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.

c. The Board determined the discharge was inequitable based on the characterization of service being too harsh. The Board noted the applicant had length and overseas service, received an Article 15, and an Under Other Than Honorable Conditions discharge was too harsh for wrongfully possessing Spice and damaging an M109A6 Paladin by cutting the communications wires inside of it. Additionally, the 15-6 Investigation found two PFCs damaged the M109A6 Paladin and could not verify the misconduct on one Soldier. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General (Under Honorable Conditions). There will be no change to the narrative reason for separation or SPD code. The Board determined the reentry code is proper and equitable and voted not to change it.

d. Rationale for Decision:

(1) The Board voted that the characterization of service was too harsh for the misconduct. The applicant's length and overseas service outweighed the offenses of wrongfully possessing Spice and damaging government equipment. Additionally, the 15-6 Investigation could not verify the misconduct on one Soldier. As a result, the discharge is inequitable. Accordingly, the Board voted to grant relief in the form of an upgrade of the characterization of service to General (Under Honorable Conditions).

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code, as the reason the applicant was discharged was both proper and equitable.

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



# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

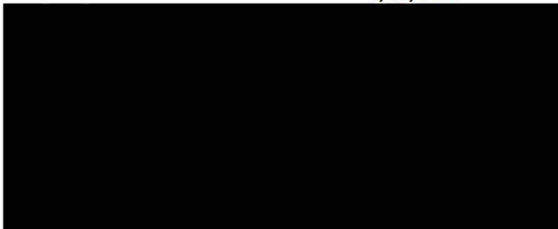
AR20210011388

## 10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: General (Under Honorable Conditions)
- c. Change Reason / SPD code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

## Authenticating Official:

5/20/2025



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