

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

- a. **Application Date:** 16 December 2020
- b. **Date Received:** 5 January 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 under other than honorable conditions. The applicant requests an upgrade to honorable and a narrative reason change.

b. The applicant states, in effect they are working to recover from their mistakes, they have been drug free for one year and currently working on starting a new career. They are requesting a change in their characterization of service so they can continue moving forward towards a new career. They are currently taking medication to help them deal with their PTSD. Their DD214 showing an other than honorable discharge with drugs as the narrative reason is making it difficult for them to start a new career.

c. **Board Type and Decision:** In a records review conducted on 20 March 2024, and by a 5-0 vote, the Board, based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (Post-Traumatic Stress Disorder, Major Depressive Disorder, Persistent Depressive Disorder, Generalized Anxiety Disorder, Social Anxiety, and Panic Disorder), determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. *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 / JKK / RE-4 / Under Other Than Honorable Conditions.

b. **Date of Discharge:** 21 May 2020

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 23 January 2020

(2) **Basis for Separation:** They wrongfully used D-Amphetamine and D-Methamphetamine on or about 10 December 2018 – 12 December 2018, 26 February 2019 – 28 February 2019 and on or about 1 December 2019 – 3 December 2019.

(3) **Recommended Characterization:** Under other than honorable conditions (UOTHC)

(4) **Legal Consultation Date:** The applicant waived counsel 4 February 2020

**(5) Administrative Separation Board:** 21 February 2020

**(6) Separation Decision Date / Characterization:** 30 April 2020 / UOTHC

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 8 December 2016 / Indefinite

**b. Age at Enlistment / Education / GT Score:** 23 / Associate / 101

**c. Highest Grade Achieved / MOS / Total Service:** E-7 / 13J1P 2S Fire Control Specialist/ 17 years, 4 months, and 6 days.

**d. Prior Service / Characterizations:** Continuous Honorable Service 20030106 - 20161207

**e. Overseas Service / Combat Service:** Germany, South Korea / Iraq; 16 February 2004 – 23 June 2004, 14 October 2004 – 1 April 2005; Afghanistan 11 May 2007 – 22 July 2008

**f. Awards and Decorations:** PH, MSM, ARCOM-6, AAM-8, VUA, MUC, ASUA, AGCM-5, NDSM, ACM-CS, ICM-CS, GWTEM, GWTSM, KDSM, NOPDR-3, ASR, OSR-3, NATOMDL

**g. Performance Ratings:** January 2006 – April 2006 ; Successful  
 1 May 2006 – 30 April 2007 ; Successful  
 1 May 2007 – 30 April 2008 ; Successful  
 1 May 2008 – 28 November 2008 ; Among The Best  
 29 November 2008 – 28 November 2009 ; Among The Best  
 29 November 2009 – 11 April 2010 ; Among The Best  
 12 April 2010 – 11 April 2011 ; Among The Best  
 12 April 2011 – 11 April 2012 ; Among The Best  
 12 April 2012 – 11 April 2013 ; Among The Best  
 12 April 2013 – 26 October 2013 ; Among The Best  
 27 October 2013 – 7 July 2014 ; Among The Best  
 8 July 2014 – 7 July 2015 ; Among The Best  
 8 July 2015 – 31 January 2016 ; Highly Qualified  
 1 February 2016 – 13 January 2017 ; Highly Qualified  
 14 January 2017 – 13 January 2018 ; Most Qualified  
 14 January 2018 – 13 January 2019 ; Not Qualified

**h. Disciplinary Action(s) / Evidentiary Record:**

**(1)** An Enlistment/Reenlistment Document signed 8 December 2016 provides the applicant reenlisted indefinitely at the rank of Sergeant First Class (E-7); fourth reenlistment.

**(2)** Orders L349-012 provides the applicant reported to Fort Polk, Louisiana on 10 February 2017 for a permanent change of station.

**(3)** A Results Report document dated 26 December 2018 provides the applicant tested positive for D-Amphetamine (DAMP) and D-Methamphetamine (DMETH); urinalysis was collected on 12 December 2018.

- A memorandum provides a medical review evaluation was conducted on 31 December 2018; the applicant did not have a prescription that would account for their positive urinalysis.

(4) A Developmental Counseling form dated 4 January 2019 provides the applicant was counseled for using illegal substances and they were command referred to ASAP/SUDCC.

(5) A Results Report document dated 6 March 2019 provides the applicant tested positive for DAMP and DMETH; urinalysis was collected on 2 February 2019.

- A medical review evaluation was conducted on 13 May 2019; the applicant did not have a prescription that would account for their positive urinalysis

(6) Record of Proceedings UCMJ dated 15 July 2019 provides the applicant received a NJP for violating Article 112a of the UCMJ on four times. They wrongfully used Schedule II controlled substances D-Amphetamine and D-Methamphetamine. Punishment consisted of forfeiture of \$2,304 pay for 2 months, extra duty for 45 day, post restriction for 45 days and an oral reprimand.

(7) On 2 December 2019 the applicant's immediate commander requested a probable cause urinalysis due to the applicants decreased work performance: they did not go to work on two occasions due to having problems sleeping, they were having a hard time staying awake during their shift and their appearance had diminished; they had black bags below their eyes and their eyes were sunken.

- The applicant was currently enrolled in the SUDCC Program

(8) A Results Report document dated 10 December 2019 provides the applicant tested positive for DAMP and DMETH; urinalysis was collected on 3 December 2019.

- A medical review evaluation was conducted on 2 January 2020; the applicant did not have a prescription that would account for their positive urinalysis

(9) A memorandum, Headquarters Joint Readiness Training Center, Fort Polk, Louisiana, subject: Separation under the provisions of AR 635-200, Chapter 14-12c dated 23 January 2020 provides the Brigadier General notified the applicant of their intent to separate them for misconduct-abuse of illegal drugs: they used D-Amphetamine and D-Methamphetamine on 3 separate occasions. The Brigadier General recommended a Under other than honorable conditions characterization of service. The applicant acknowledged the commander's notification and basis for separation, and their available rights.

(10) On 4 February 2020 the applicant completed their election of rights, they requested consideration of their case by administrative separation board and waived consulting counsel. On 7 February 2020 the applicant was notified to appear before the administrative separation board on 21 February 2020.

(11) A Report of Mental Status Evaluation document dated 10 February 2020, provides the applicant received a separation mental health evaluation and was psychiatrically cleared for administrative separation.

- On 28 February 2020 the applicant received a separation medical examination

(12) On 30 April 2020 the Brigadier General directed the applicant to be separated from the Army prior to the expiration of their current term of service with a Under Other Than Honorable Conditions characterization of service.

(13) The applicant acknowledged receipt of the separation with an UOTHC characterization of service; "When discharged under other than honorable conditions, the separation authority will direct an immediate reduction to the lowest enlisted grade".

(14) On 17 May 2020, the applicant was administratively removed from the Master Sergeant promotion selection list due to their rank reduction to E-1.

(15) A Certificate of Release or Discharge from Active-Duty document (DD Form 214) provides on 21 May 2020 the applicant was discharged from the army, they completed 17 years, 4 months, and 16 days of active duty service.

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

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

(1) **Applicant provided:** A Department of Veteran Affairs document provides the applicant was diagnosed with PTSD; 50 percent service connected.

(2) **AMHRR Listed:** The applicant had two inpatient stays for drug abuse and was enrolled in ASAP/SUDCC.

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293 (Discharge Review) application, their complete Official Military Personnel File (OMPF), a Associates degree certificate that provides the applicant received an applied technology degree 17 December 2001, 2- Department of Veteran affairs documents that provides the applicant was diagnosed with PTSD, a document that provides the applicant was enrolled in a Electrical Line worker Program and a Department of Veteran Affairs Certificate of Eligibility document that provides the applicant is entitled to benefits under the Post-9/11 GI Bill.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has been drug free and enrolled/placed in an Electrical Line worker Program, May 2021.

**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.** 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), dated 25 September 2019, 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 provides the basic authority for the separation of enlisted personnel provides the authorized types of characterization of service or description of separation.

**(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) An Under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(4) 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 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. A soldier subject to this discharge under this regulation will be considered and processed for discharge even though he/she has filed an appeal or has stated his/her intention to do so. Paragraph 14-12c, states 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.

e. 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.

(1) 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 missions.

(2) Individuals who do not self-refer for treatment and are subsequently identified as positive for controlled substances for which they do not have a valid prescription may be considered in violation of the UCMJ for drug misuse/abuse.

f. 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, misconduct (drug abuse).

g. 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:

- 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 waivable. Eligibility: Ineligible unless a waiver is granted.
- RE-4 Applies to: Person separated from last period of service with a nonwaivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

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

**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 DD Form 214 provides that the applicant received an under other than honorable conditions (UOTCH) characterization of service which is normally appropriate for a soldier discharged under CH 14 for misconduct (drug abuse).

**b.** Based on the available evidence the applicant enlisted in the army at the age of 23, they advanced to the rank of Sergeant First Class and deployed 3 times during their enlistment and received many awards and medals to include the Purple Heart Medal. They ranked "Among The Best" on majority of their Non-Commissioned Officer Evaluation Reports. On 26 December 2018 they tested positive for DAMP and DMETH and was command referred to SUDCC. They tested positive a second time for the illegal substances 3 months later and received a non-judicial punishment (NJP), later that year after a probable cause urinalysis the applicant tested positive a third time for the illegal substances while they were enrolled in ASAP. The Brigadier General subsequently processed them for administrative separation.

**c.** The applicant was notified of the intent to separate them for misconduct (abuse of illegal drugs), they acknowledged they understood the basis for separation under the provisions AR 635-200, CH 14-12c. They elected consideration of their case by an administrative separation board and waived consulting with counsel. They received the required medical and mental health separation examinations that cleared them for administrative separation. The applicant was notified of the separation approval, receiving an UOTCH discharge and a rank demotion to E-1. A properly constituted DD Form 214 shows they were discharged under the provisions of Army Regulation 635-200, Chapter 14 Misconduct (drug abuse) on 21 May 2020 after serving 17 years, 4 months, and 16 days in the army.

d. Chapter 14 establishes policy and prescribes procedures for members being separated 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.

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:

c. 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 by military providers with Unspecified Mood Disorder. A civilian facility diagnosed Post-Traumatic Stress Disorder, Major Depressive Disorder, Persistent Depressive Disorder, Generalized Anxiety Disorder, Social Anxiety, and Panic Disorder. Post-service, the applicant is service connected for PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant was diagnosed by military providers with Unspecified Mood Disorder. A civilian facility diagnosed Post-Traumatic Stress Disorder, Major Depressive Disorder, Persistent Depressive Disorder, Generalized Anxiety Disorder, Social Anxiety, and Panic Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given the nexus between trauma and substance use, the basis is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes**

d. Response to Contention(s): The applicant contends their DD214 is making it difficult for them to start a new career. 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 Post-Traumatic Stress Disorder, Major Depressive Disorder, Persistent Depressive Disorder, Generalized Anxiety Disorder, Social Anxiety, and Panic Disorder fully outweighing the applicant's drug abuse basis for separation.

e. The Board determined based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (Post-Traumatic Stress Disorder, Major Depressive Disorder, Persistent Depressive Disorder, Generalized Anxiety Disorder, Social Anxiety, and Panic Disorder), determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new



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

**AR20210011391**

DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN.

**f. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post-Traumatic Stress Disorder, Major Depressive Disorder, Persistent Depressive Disorder, Generalized Anxiety Disorder, Social Anxiety, and Panic Disorder mitigated the applicant's misconduct of drug abuse. 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.

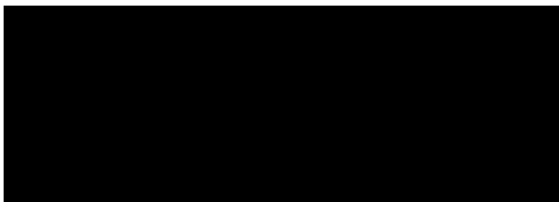
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**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:**

6/24/2024



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