

1. Applicant's Name: [REDACTED]**a. Application Date:** 12 December 2020**b. Date Received:** 28 December 2020**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 honorable conditions (general). The applicant requests an upgrade to honorable, restoration of rank and a narrative reason change to disability.

The applicant states in effect, their discharge was inadequate. After coming back from tour, they tried talking to doctors but, the doctors told them it was depression, and they were put on strong antidepressants. Their marriage fell apart, they were forced out of their home, and they had to move into the barracks. They were broken and made some very bad choices with drugs, they would have reenlisted and made E-5 easily but their PTSD just would not allow it. In 2016 their long VA claim was approved; they now have service connection and while serving they performed all their duties with no hesitation. They would like an upgrade to honorable, a narrative reason change and a change to their rank(E-4), they lost their rank due to an isolated mistake during the last few months of their enlistment, something they deeply regret.

b. Board Type and Decision: In a records review conducted on 13 November 2024, and by a 4-1 vote, the Board determined that the characterization of service was inequitable based on the applicant's PTSD mitigating the applicant's wrongful use of D-Amphetamine and D-Methamphetamine basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code were proper and equitable. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

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 / General (Under Honorable Conditions).

b. Date of Discharge: 20 November 2008**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 21 October 2008

(2) Basis for Separation: Between 8 May 2008 and 15 May 2008 the applicant wrongfully used D-Amphetamine and D-Methamphetamine controlled substance.

(3) Recommended Characterization: General, under honorable conditions.

(4) Legal Consultation Date: Waived; 22 October 2008

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 28 October 2008 / General, under honorable conditions.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 21 November 2005 / 3 years, 18 weeks.

b. Age at Enlistment / Education / GT Score: 19 / GED / 101

c. Highest Grade Achieved / MOS / Total Service: E-4 (Specialist) / 11B10 Infantryman / 3 years.

d. Prior Service / Characterizations: None.

e. Overseas Service / Combat Service: Hawaii / Iraq; 20060807 – 20071031

f. Awards and Decorations: NDSM, GWTSM, ICM-CS, ASR, OSR-2

g. Performance Ratings: N/A

h. Disciplinary Action(s) / Evidentiary Record:

(1) Four Developmental Counseling Forms indicates between 1 May 2007 – 11 March 2008 the applicant had various acts of misconduct.

(2) A Record of Proceedings UCMJ document, signed 1 April 2008 provides the applicant received a NJP for violating Article 86 of the UCMJ: they failed to go to their prescribed place of duty on 5 January 2008. Punishment consisted of reduction to E-3, forfeiture of \$419 pay and extra duty for 14 days.

(3) A Lab Results Report provides the applicant tested positive for methamphetamines after a urinalysis was collected on 15 May 2008.

(4) On 28 July 2008 the applicant received a NJP for violating Article 112a of the UCMJ: between 8 May 2008 – 15 May 2008 they wrongfully used Methamphetamine. Punishment consisted of reduction to E-3, forfeiture of \$419 pay and extra duty for 14 days.

(5) On 21 October 2008 the applicant's immediate commander notified them of their intent to separate them for abuse of illegal drugs. The commander recommended a General (under honorable conditions) characterization of service. The applicant acknowledged the commander's notification and basis for separation, they waived consulting with counsel and completed their election of rights.

(6) On 25 October 2008 the chain of command endorsed and concurred with the commander's discharge recommendation and on 28 October 2008 the appropriate authority approved the separation and directed a General, under honorable conditions characterization of service.

(7) A Certificate of Release or Discharge from Active-Duty document provides the applicant was discharged on 20 November 2008, they completed 3 years of their contractual obligation.

(8) An Enlisted Record Brief (ERB) indicates the applicant advanced to the pay grade of E-4 on 21 November 2007 and had an ETS date of 26 March 2009.

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

j. **Behavioral Health Condition(s):** PTSD, and major depressive disorder.

(1) **Applicant provided:** Department of Veteran Affairs rating decision letter that indicates a 70 percent disability rating.

(2) **AMHRR Listed:** Depression

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Record Review) Application, DD Form 214, their complete separation packet and a Department of Veteran Affairs rating decision letter in support of their application.

6. POST SERVICE ACCOMPLISHMENTS: None submitted in support of their application.

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. It provides 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. 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. 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 the agency.

h. 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 waiverable. Eligibility: Ineligible unless a waiver is granted.
- 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, and a narrative reason change. The applicant's DD-214 provides the applicant received a General (under honorable conditions) characterization of service, rather than an under other than honorable conditions discharge which is normally considered appropriate for a soldier discharged for drug abuse.

b. Based on the available evidence the applicant enlisted in the Army at the age of 19, they deployed to Iraq and six months after they returned from deployment, they received their first NJP for failing to go to accountability formation. The applicant received their second NJP four months later after they tested positive for a controlled substance.

c. The applicant was notified of the intent to separate them for misconduct-drug abuse and acknowledged they understood the basis for separation under the provisions AR 635-200, CH 14-12c, they received the required separation medical examinations, and the appropriate authority approved the separation. A properly constituted DD Form 214, authenticated by the applicant's signature indicates they were discharged under the provisions of AR 635-200, CH 14-12c, by reason of Misconduct (Drug Abuse) with a general, under honorable conditions characterization of service on 20 November 2008.

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:

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 held an in-service diagnosis of Anxiety Disorder NOS. Post-service, applicant is service connected for combat related PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant held an in-service diagnosis of Anxiety Disorder NOS. The trauma serving as the basis for the service-connected PTSD occurred in-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 given the trauma occurred prior to the misconduct and there is a nexus between PTSD and substance use, the applicant's wrongful use of D-Amphetamine and D-Methamphetamine is mitigated.

(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 PTSD outweighed the wrongful use of D-Amphetamine and D-Methamphetamine basis for separation.

b. Response to Contention(s):

(1) The applicant contends they suffered from PTSD. The Board determined that this contention was valid and voted to upgrade the characterization of service due to PTSD mitigating the applicant's wrongful use of D-Amphetamine and D-Methamphetamine basis for separation.

(2) The applicant contends a narrative reason change to disability is warranted and the rank earned be restored. The Board considered this contention and determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 149 regarding this matter. A DD Form 149 may be obtained from a Veterans' Service Organization.

c. The Board determined that the characterization of service was inequitable based on the applicant's PTSD mitigating the applicant's wrongful use of D-Amphetamine and D-Methamphetamine basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code were proper and equitable. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD mitigated the applicant's misconduct of marijuana abuse and AWOL. Thus, the prior characterization is no longer appropriate

(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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210012145

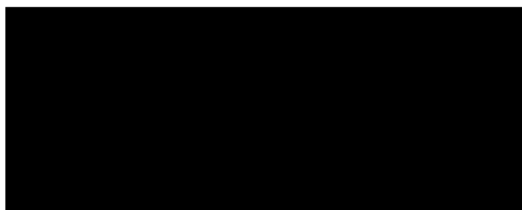
(3) The RE code will not change due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

Authenticating Official:

6/17/2025



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