

1. Applicant's Name: [REDACTED]

- a. Application Date: 11 May 2021
- b. Date Received: 17 May 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 honorable conditions (general). The applicant requests an upgrade to honorable, and a narrative reason change.

The applicant states in effect, they would like to have an honorable discharge so that they may be eligible for the Post 9/11 G.I. Bill.

a. **Board Type and Decision:** In a records review conducted on 6 November 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (MDD diagnoses). 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. The Board determined the reentry code is proper and equitable and voted not to change it.

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

2. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Drug Abuse) / AR 635-200 / JKK / RE-4 / Under Honorable Conditions (General).

b. **Date of Discharge:** 31 March 2015

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 24 February 2015

(2) **Basis for Separation:** On three separate occasions between 4 October 2014 – 7 October 2014, 13 October 2014 – 16 October 2014 and 22 November 2014 – 25 November 2014 the applicant wrongfully used heroin, and they wrongfully used hydromorphone between 22 November and 25 November 2014. Additionally, some of the minor misconduct they committed includes:

- Absent without leave from 6 October 2014 – 7 October 2014
- Absent without leave from 8 December 2014 – 26 December 2014

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

(4) **Legal Consultation Date:** 16 February 2015; Declined Counsel

(5) **Administrative Separation Board:** N/A

(6) Separation Decision Date / Characterization: NIF / GD

3. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 29 May 2012 / 4 years, 21 weeks.
- b. Age at Enlistment / Education / GT Score:** 19 / Test-Based equivalent Certificate / 102
- c. Highest Grade Achieved / MOS / Total Service:** E-4 (Specialist) / 42A1P Human Resources Specialist / 2 years, 9 months, 13 days.
- d. Prior Service / Characterizations:** None.
- e. Overseas Service / Combat Service:** None.
- f. Awards and Decorations:** AAM, NDSM, GWTSM, ASR, COA-2
- g. Performance Ratings:** N/A
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) A Personnel Action Document provides that the applicant's duty status changed from present for duty (PDY) to absent without leave (AWOL) on 6 October 2014. Their duty status changed from AWOL to PDY on 7 October 2014 when they reported to duty at 1400.

(2) On 8 December 2014 the applicant's duty status changed from PDY to AWOL. Their duty status changed from AWOL to PDY on 26 December 2014, they were admitted to the medical center on post.

(3) On 24 February 2015 the applicant's immediate commander notified them of their intent to separate them for misconduct; 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 declined the opportunity to consult with counsel and completed their election of rights.

(4) A Commander's Report dated 26 February 2015, provides the applicant received a Company Grade Article 15 and a Field Grade Article 15.

- On 29 August 2014 they received a NJP for failing to report to their appointed place of duty on four different occasions. Punishment consisted of a rank reduction to E-3, forfeiture of \$447, extra duty for 14 days and an oral reprimand.
- On 20 November 2014 they received a NJP for failing to report to their appointed place of duty on four different occasions, AWOL 6 October – 7 October 2014, and for wrongful use of heroin between 4 October – 7 October 2014. Punishment consisted of a rank reduction to E-2, forfeiture of \$858 pay for two months, 45 days of extra duty and an oral reprimand.

(5) On 27 February 2015 the command endorsed and concurred with the commander's discharge recommendation and on an unknown date the appropriate authority approved the separation and directed a general, under honorable conditions characterization of service.

(6) A Certificate of Release or Discharge From Active Duty document provides the applicant was discharged on 31 March 2015, they completed 2 years, 9 months, and 13 days of their contractual obligation.

i. Lost Time / Mode of Return: 20141006 – 20141007, 20141208 – 20141225 / Returned to military control.

j. Behavioral Health Condition(s): Other mental health

(1) Applicant provided: Treatment completion certificates.

(2) AMHRR Listed: Substance Abuse

4. APPLICANT-PROVIDED EVIDENCE: DD FORM 293 (Record Review) application, DD Form 214, a certificate dated 22 November 2016 that shows the applicant completed the Substance Abuse Treatment Program, and two certificates dated 6 July 2017 and 10 Septemeber 2018 that shows the applicant completed the Psychosocial Residential Rehabilitation Treatment Program.

5. POST SERVICE ACCOMPLISHMENTS: The applicant completed a Substance Abuse Treatment program, and they completed a Psychosocial Residential Rehabilitation Treatment program twice.

6. 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) Except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further

useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for the following reasons:

- Involuntary separation due to parenthood
- Personality disorder
- Other designated physical or mental conditions
- Entry-level performance and conduct
- Unsatisfactory performance
- Minor disciplinary infractions or a pattern of misconduct
- Failure to meet body fat standards

(5) 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. Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

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 630-10 (Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings) provides policies and procedures for reporting unauthorized absentees and deserters, the administering of absent without leave (AWOL) personnel and deserters, returning absentees and deserters to military control and the surrendering of military personnel to civilian law enforcement authorities.

(1) When a soldier returns from an absence that is or appears to be unauthorized, the unit commander informally investigates whether disciplinary action should be taken and if the soldier should be charged with time lost.

(2) Classification of an absence is dependent upon such factors as the following

- Orders and instructions, written and oral, the Soldier received before and during the absence.
- Age, military experience, and general intelligence of the soldier.
- Number and type of contact the soldier had with the military while absent.
- Complete or incomplete results of a court-martial decision, if any.

(3) An absence immediately following authorized leave is classified as AWOL. Should the absence subsequently be reclassified, the soldier's leave is corrected to reflect the reclassified absence, except if the absence is caused by the following:

- Mental incapacity
- Detention by civilian authorities
- Early departure of a mobile unit due to operational commitments.

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

i. 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.

- Chapter 1-7c (5) Soldiers who fail to participate adequately in or respond to successfully to rehabilitation will be processed for administrative separation.
- Soldiers with subsequent alcohol or drug related incident or misconduct at any time during the 12 month period following successful completion of the ASAP or during the 12 month period following removal for any reason, will be processed for separation as a rehabilitation failure.

7. 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 a General (under honorable conditions) characterization of service, rather than an under other than honorable conditions (UOTHC) discharge, which is normally considered appropriate for a soldier discharged under CH 14 for misconduct.

b. Based on the available evidence the applicant enlisted in the army at the age of 19, they received a Non Judicial Punishment (NJP) on 29 August 2014 after they failed to report to their appointed place of duty on four different occasions. They received their second NJP 84 days later for using heroin and being AWOL. The applicant's punishment for their last NJP included 45 days of extra duty, while still serving their punishment they were AWOL.

c. The applicant was notified of the Intent to separate them, they declined the opportunity to consult with counsel 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 31 March 2015.

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.

8. 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 Disorder with psychotic features; Major Depressive DO. [Note-Adjustment DO with mixed emotional features and Adjustment DO with anxiety are subsumed under Major Depressive DO.]

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found MDD with psychotic features was diagnosed in service. VA service connection for MDD establishes nexus with military 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, Major Depressive Disorder. As there is an association between MDD, self-medication with alcohol and/or illicit drugs and avoidant behavior, there is a nexus between his diagnosis of MDD, his wrongful use of opioids and his incidents of AWOL.

(4) Does the condition or experience outweigh the discharge? Yes. After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's condition or experience outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None.

c. Response to Contention(s): N/A

d. The Board determined the discharge is inequitable based on the circumstances surrounding the discharge (MDD diagnoses). 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. The Board determined the reentry code is proper and equitable and voted not to change it.

e. Rationale for Decision:

(1) The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Quality) and concurred with the conclusion of the medical advising official that the applicant's (Major Depressive disorder) does mitigate the applicant's basis for separation. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable.

(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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE
AR20210013965

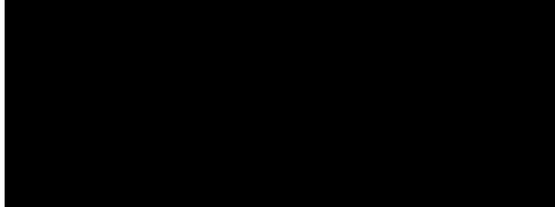
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

9. 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:

6/24/2025



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