

1. Applicant's Name: [REDACTED]**a. Application Date:** 13 October 2021**b. Date Received:** 13 October 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 general (under honorable conditions). The applicant requests an upgrade to honorable and a reentry (RE) code change.

The applicant seeks relief contending, in effect, the applicant was shot while on leave and used tetrahydrocannabinol to combat the pain. The applicant takes responsibility for the actions which led to the separation and desires to reenter military service.

b. Board Type and Decision: In a records review conducted on 16 April 2025, and by a 3-2 vote, the Board denied the request to change the character of service to honorable upon finding the separation was both proper and equitable. The Board determined that the RE Code change from RE-4 to RE-3 is warranted given the applicant's request to come back in the military with a waiver.

*Please see **Board Discussion and Determination** section for more detail regarding the Board's decision.*

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Drug Abuse) / AR 635-200, Paragraph 14-12c(2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 3 January 2020

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 14 November 2019

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant wrongfully used tetrahydrocannabinol (THC) between on or about 2 April 2019 and on or about 2 May 2019.

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

(4) Legal Consultation Date: On 14 November 2019, the applicant waived the right to consult with counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 19 December 2019 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

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- a. **Date / Period of Enlistment:** 1 August 2017 / 3 years, 16 weeks
- b. **Age at Enlistment / Education / GT Score:** 18 / 1 year college / 102
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10, Infantryman / 2 years, 5 months, 3 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Afghanistan (25 February 2018 – 10 November 2018)
- f. **Awards and Decorations:** ARCOM-C-Device, NDSM, GWOTSM, ACM-CS, ASR, NATO MDL, CIB
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 23 September 2019, reflects the applicant wrongfully used THC between on or about 2 April 2019 and on or about 2 May 2019. The punishment consisted of reduction to private/E-1; forfeiture of \$840 pay, suspended, to be automatically remitted if not vacated on or before 23 October 2019; extra duty and restriction for 45 days; and an oral reprimand.
- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**
 - (1) **Applicant provided:** None
 - (2) **AMHRR Listed:** Report of Mental Status Evaluation (MSE), 13 September 2019, reflects the applicant could understand and participate in administrative proceedings and appreciate the difference between right and wrong. The applicant's behavioral health condition was not a likely mitigating factor in the alleged behavior leading to administrative separation. The applicant was diagnosed with adjustment disorder with mixed anxiety and depressed mood.

5. APPLICANT-PROVIDED EVIDENCE: On-Line Application

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the 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.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states 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.

(3) Paragraph 3-7b states 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.

(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.

(5) Paragraph 14-3 prescribes 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.

(6) Paragraph 14-12c(2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under paragraph 14-12a or 14-12b as appropriate.

(7) 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.

e. 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.

The applicant requests an upgrade to honorable and a RE code change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant was separated under the provisions of Army Regulation 635-200, Chapter 14-12c(2) due to Misconduct (Drug Abuse), with a General (Under Honorable Conditions), and a RE code of "4." 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.

The applicant contends the applicant was shot while on leave and used THC to combat the pain. The applicant takes responsibility for the actions which led to the separation and desires to reenter military service.

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 mixed anxiety and depressed mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found Adjustment DO with mixed anxiety and depressed mood was diagnosed during active 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 Alcohol Abuse and Cannabis Abuse, two conditions which do not fall under the purview of liberal consideration. The applicant has contended, however, that he was self-medicating his leg pain with marijuana. AHLTA indicates he was examined by an orthopedic surgeon on 8 Jan 2019 who noted he was being seen for a left knee broken femur secondary to a GSW on 21 Dec 2018. In the advisor's opinion, while the applicant may have initially used marijuana to treat his leg pain, the record indicates he continued to use marijuana regularly even after his leg condition had been addressed by his medical providers. This conclusion notwithstanding, his self-assertion that he used marijuana to treat his leg pain merits consideration by the board. The diagnosis of Adjustment DO with mixed anxiety and depressed mood is not mitigated under liberal consideration as it is a mild, temporary condition not associated with the long-term maladaptive behavioral changes which can be often seen in long-term, serious mental health conditions.

(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 did not outweigh the basis of separation. However, the majority of the Board determined a change to RE Code was warranted to allow the applicant to request to come back into the military with a waiver.

b. Prior Decisions Cited: None

c. Response to Contention: The applicant contends the applicant was shot while on leave and used THC to combat the pain. The applicant takes responsibility for the actions which led to the separation and desires to reenter military service.

The Board acknowledged this contention and determined a change to RE Code was warranted to allow the applicant to request to come back into the military with a waiver.

d. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the Board. 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. The Board determined that Re Entry code change from RE-4 to RE-3 is warranted given the applicant's request to come back in the military with a waiver.

e. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service or reason for separation. Based on a preponderance of evidence, the Board determined the characterization and reason for the applicant's separation was both proper and equitable.

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

(3) The Board determined that a change from RE Code 4 to RE-3 was warranted given the applicant requests to reenter the service with a waiver. The Board determined the applicant's length, quality and combat warrant an opportunity to reenter military service.

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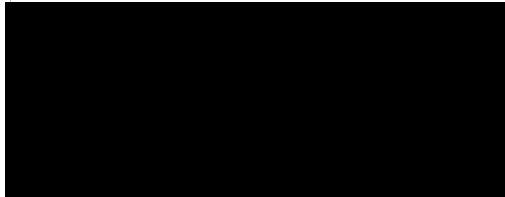
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10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: No change
- c. Change Reason / SPD code to: No change
- d. Change RE Code to: RE-3
- e. Change Authority to: No change

Authenticating Official:

4/23/2025



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