

1. Applicant's Name: [REDACTED]

a. Application Date: 17 August 2021

b. Date Received: 17 August 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.

b. Applicant's Contention(s)/Issue(s): The applicant seeks relief contending, they were diagnosed with depression in their Veterans Affairs (VA) evaluation. They experienced these symptoms during service but without help, the applicant was lost on the best course of action. Other than the infraction due to their undiagnosed condition, their service was honorable. This correction should be made because if they were properly diagnosed during service, the applicant would have received proper help, and they would have maintained their honorable status.

c. Board Type and Decision: In a records review conducted on 23 July 2025, and by a 4-1 vote, the Board determined the discharge is inequitable citing Major Depressive Disorder as a mitigating factor in the applicant's repeated marijuana use. As a result, the Board upgraded the service characterization to Honorable, revised the separation authority to AR 635-200, paragraph 14-12a, and changed the narrative reason to "Misconduct (Minor Infractions)" with a corresponding separation code of JKN. The RE Code was deemed proper and equitable and the Board voted not to change it. Please see the **Board Discussion and Determination** section 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, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 11 September 2009

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 20 July 2009

(2) Basis for Separation: On or about 20 January – 18 February 2009, the applicant wrongfully used marijuana (a controlled substance).

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

(4) Legal Consultation Date: 12 August 2009

(5) Administrative Separation Board: NA

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

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 17 August 2006 / 4 years

b. Age at Enlistment / Education / GT Score: 23 / High School Diploma / 126

c. Highest Grade Achieved / MOS / Total Service: E-4 / 25F10 Network Switching Systems Operator-Maintainer / 3 years, 25 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea (1 year) / None

f. Awards and Decorations: AAM-2, NDSM, GWOTSM, KDSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: On 3 March and 17 June 2009, the applicant was flagged (Suspend Favorable Personnel Actions (FLAG)) for adverse action (AA) and field-initiated involuntary separation (BA).

(1) A DAMIS (Drug and Alcohol Management Information System) report, dated 26 February 2009, revealed a previous positive urinalysis on 14 July 2008. On 2 June 2009, the applicant received nonjudicial punishment (NJP) for wrongful use of marijuana on or between 20 January – 18 February 2009, in violation of Article 112a, UCMJ (wrongful use of controlled I substance). Their punishment imposed a reduction to private (E-1) and 45 days of extra duty.

(2) On 11 September 2009, their separation orders were issued, and a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged accordingly on the same day, with 3 years, 1 month, and 25 days of total service. The applicant was not available to provide a signature and had not completed their first full term of service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s): The following documents have been provided to the ARBA Medical Advisor. See **Board Discussion and Determination** for Medical Advisor Details.

(1) Applicant provided: A VA Summary of Benefits Letter, dated 16 July 2021, provides the applicant is in receipt of a 40% service-connection disability rating; however, their disabilities were not indicated.

(2) AMHRR Listed: On 13 March 2009, the applicant completed a mental status evaluation which did not indicate a BH diagnoses, although, the commander's worksheet identified the applicant's ASAP (Army Substance Abuse Program) enrollment.

5. APPLICANT-PROVIDED EVIDENCE: Application for Correction of Military Record

6. POST SERVICE ACCOMPLISHMENTS: None provided with this application.

a. STATUTORY, REGULATORY AND POLICY REFERENCE(S): 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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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.

f. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers for ASAP services. The ASAP is a command program that emphasizes readiness and personal responsibility. 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 mission. All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

(1) Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement. ASAP participation is mandatory for all Soldiers who are command referred. Failure to attend a mandatory counseling session may constitute a violation of Article 86 (Absence Without Leave) of the UCMJ.

(2) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(3) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(4) All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

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:

(1) RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

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

h. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) Chapter 3 provides:

(a) 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.

(b) 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.

(c) 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.

(2) 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 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. 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.

(3) 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.

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

i. 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 14-12c (2) for misconduct (drug abuse).

j. Manual for Courts-Martial (2008 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good orders and discipline in the Armed Forces. Article 112a (wrongful use of a schedule I controlled substance) states in the subparagraph, the maximum punishment consists of a dishonorable discharge, forfeiture of all pay and allowances, and confinement for two years.

k. 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.

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 Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The available evidence provides the applicant enlisted in the RA, promoted to SPC, was stationed overseas in Korea for one year, and served 3 years and 25 days of their 4 year contractual obligation.

(1) The applicant received NJP for having wrongfully used marijuana on or between January – February 2009 and was consequently reduced to the PVT and imposed extra duty. Additionally, the record revealed a previous positive urinalysis for marijuana (July 2008). Separation proceedings were initiated under the provisions of AR 635-200, Chapter 14-12c (2) for misconduct (drug abuse) with a general (under honorable conditions) characterization of service. They elected to consult with legal and elected to provide a statement on their behalf; however, no such statement(s) were saved in the AMHRR.

(2) They provided a VA Summary of Benefits Letter, dated 16 July 2021, which identified their 40% service-connected disability rating, though the letter does not indicate any disabilities.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

d. 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 DO (MDD-30% SC). [Note-diagnosis of Adjustment DO with depressed mood is subsumed under diagnosis of MDD.].

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for MDD (30%) establishes nexus with 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 (MDD). As there is an association between MDD and self-medication with illicit drugs, there is a nexus between his diagnosis of MDD and his wrongful use of marijuana on two occasions.

(4) Does the condition or experience outweigh the discharge? **Yes.** The Board concurred with the opinion of the Board's Medical Advisor, a voting member. As a result, the

ADRB applied liberal consideration and found that the applicant's Major Depressive Disorder (MDD) outweighed the basis for separation - repeated instances of wrongful marijuana use.

b. Prior Decisions Cited: None

c. Response to Contention(s): The applicant seeks relief contending, they were diagnosed with depression in their Veterans Affairs (VA) evaluation. They experienced these symptoms during service but without help, the applicant was lost on the best course of action. Other than the infraction due to their undiagnosed condition, their service was honorable. This correction should be made because if they were properly diagnosed during service, the applicant would have received proper help, and they would have maintained their honorable status.

The Board reviewed this contention during the proceedings; however, it did not take further action on the matter, as an upgrade was granted.

d. The Board determined the discharge is inequitable based on the applicant's Major Depressive Disorder (MDD) mitigating the applicant's misconduct, drug abuse (repeated instances of wrongful marijuana use). 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.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Major Depressive Disorder (MDD) outweighed the basis for separation, repeated instances of wrongful marijuana use. 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 rational, 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.

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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, paragraph 14-12a

Authenticating Official:

7/31/2025



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