

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 3 November 2021
- b. **Date Received:** 3 November 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 narrative reason change.

The applicant seeks relief contending, in effect, that they were not given the chance to appeal their case as presented in the memorandum from the JAG Defense counsel. Their rights were violated, and they were forced to receive the discharge that they received by a new chain of command that did not know the soldier that they were leading up to that point in their life.

At the time they were in a place of mental crisis, they had not been back stateside that long after their deployment. After they returned, they started going through a separation with their spouse which involved a child that was taken from them while also dealing with another serious family crisis. Their life was in a downward spiral and their mental health was not stable, their chain of command knew what they were battling with and instead of showing empathy they were kicked out of the army while they were down. Their command tried to make an example out of them, and they broke UCMJ laws by doing so.

b. **Board Type and Decision:** In a records review conducted on 17 October 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length, quality of service to include combat, and the circumstances surrounding the discharge (PTSD, Anxiety Disorder, Depression, and various Adjustment Disorders). 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 **Board Discussion and Determination** section for more detail regarding the Board's decision.*

(Board member names available upon request)

1. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200 / JKQ / RE-3 / Under Honorable Conditions (General)

b. **Date of Discharge:** 10 February 2012

c. **Separation Facts:** AMHRR

(1) **Date of Notification of Intent to Separate:** 31 January 2012

(2) **Basis for Separation:** The applicant was informed of the following reasons:

- Between 3 October 2011 – 2 November 2011 and between 25 September 2011 – 25 October 2011 the applicant wrongfully used marijuana, for which they received an Article 15.

(3) Recommended Characterization: General under honorable conditions.

(4) Legal Consultation Date: 1 February 2012

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 9 February 2012 / GD

2. SERVICE DETAILS:

a. Date / Period of Enlistment: 10 September 2008 / 3 years, 22 weeks.

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 90

c. Highest Grade Achieved / MOS / Total Service: E-4 (Specialist) / 92G10 Food Service Specialist / 3 years, 5 months, 1 day.

d. Prior Service / Characterizations: None.

e. Overseas Service / Combat Service: None / Afghanistan; 20100501 – 20110422

f. Awards and Decorations: AAM, NDSM, AFCM-2-CS, ASR, OSR, NATO MDL

g. Performance Ratings: N/A

h. Disciplinary Action(s) / Evidentiary Record:

(1) An Enlistment/ Reenlistment Document indicates that the applicant enlisted in the Army Reserve at the pay grade of E-1 with an active duty obligation of 3 years and 22 weeks on 23 August 2008.

(2) On 19 January 2012 the applicant's immediate commander notified the applicant 's chain of command of their recommendation to separate the applicant from the United States Army.

(3) On 31 January 2012 the applicant's immediate commander notified them of their intent to separate them for Commission of a Serious Offense. The commander recommended a General (under honorable conditions) characterization of service.

(4) On 1 February 2012 the applicant acknowledged the commander's notification and basis for separation, they completed their election of rights, and they elected to submit statements on their behalf within seven Calander days. Matters had to be submitted before close of business on 8 February 2012.

(5) On 3 February 2012 the chain of command endorsed and concurred with the commander's discharge recommendation before the applicant's seven day suspense to submit their statements concluded.

(6) A Memorandum of Record dated 9 February 2012 indicates the applicant failed to submit written matters and their separation was forwarded to the convening authority for disposition.

(7) On 9 February 2012 the appropriate authority approved the separation and directed a general, under honorable conditions characterization of service. The applicant had five working days to out-process the installation after the issuance of orders.

(8) A Certificate of Release or Discharge from Active-Duty document indicates that the applicant was discharged on 10 February 2012, they completed 3 years, 5 months, and 1 day of their contractual obligation.

- The applicant was discharged one day after their separation was approved.
- The applicant's ETS date was 10 February 2012.

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

j. **Behavioral Health Condition(s):** PTSD and other mental health.

(1) **Applicant provided:** Cerebral medical letter dated 25 April 2022

(2) **AMHRR Listed:** None.

3. **APPLICANT-PROVIDED EVIDENCE:** Two DD Form 293 (Record Review) applications, a Memorandum for the Army Review Board Agency dated 5 June 2012 from the defense counsel, a letter from their provider signed 25 April 2022 and their separation packet in support of their application.

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

5. **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.

(5) 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 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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

f. 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.

g. Army Regulation 601-210, Regular Army, and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

- RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.
- RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is 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.

6. 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-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 for serious misconduct.

b. Based on the available evidence, the applicant enlisted in the army at the age of 18, they advanced to the rank of Specialist and deployed to Afghanistan for 12 months. Five months after they returned from deployment, they wrongfully used marijuana between 25 September 2011 – 2 November 2011. The applicant received an NJP, and they were subsequently processed for administrative separation. The AMHRR is void of the NJP and positive urinalysis results for marijuana.

c. The applicant was notified of the intent to separate them for commission of a serious offense and acknowledged they understood the basis for separation under the provisions AR 635-200, CH 14-12c. A properly constituted DD Form 214 indicates they were discharged under the provisions of AR 635-200, CH 14-12c, by reason of misconduct (Serious Offense) with a general, under honorable conditions characterization of service on 10 February 2012. The applicant was discharged on their ETS date.

d. The applicant and their defense counsel at the time of discharge contends that the applicant submitted their rebuttal matters on 8 February 2012 to the company commander. Evidence indicates that the applicant's chain of command recommended separation prior to receiving the applicant's written matters. The defense counsel contends the applicant's discharge proceedings were rushed without reviewing the applicant's rebuttal because of their ETS date of 10 February 2012. Additionally, evidence indicates that a paralegal stated their office did not receive the rebuttal matters as of 9 February 2012 therefore the applicant's separation packet was forwarded to the convening authority without the applicant's written matters.

e. 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.

f. 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.

7. 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: PTSD, Anxiety Disorder, Depression, various Adjustment Disorders.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 70 percent SC for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that a review of the available information shows the applicant has BH conditions that mitigates his misconduct as outlined in the BoS. The applicant is SC for PTSD and has additional diagnoses of Anxiety Disorder, Depressive Disorder, and various Adjustment Disorders subsumed by PTSD. Given the nexus between his BH condition and the use of substances to self-medicate, the applicant's misconduct characterized by the wrongful use of marijuana is mitigated by his BH conditions.

(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 outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None

c. Response to Contention(s): No contentions presented.

d. The Board determined that the discharge is inequitable based on the applicant's length, quality of service to include combat, and the circumstances surrounding the discharge (PTSD, Anxiety Disorder, Depression, and various Adjustment Disorders). 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 determined the discharge is inequitable based on the applicant's Anxiety Disorder, Depressive Disorder, and various Adjustment Disorders subsumed by PTSD that mitigated the applicant's wrongful use of marijuana, basis for separation. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200,

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paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the RE Code was proper and equitable and voted not to change it.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions). 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.

8. 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:

10/25/2025



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