

1. Applicant's Name: [REDACTED]

a. **Application Date:** 2 December 2021

b. **Date Received:** 2 December 2021

c. **Counsel:** None

2. REQUESTS ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant Requests:** The current characterization of service for the period under review is Bad Conduct. The applicant requests and honorable characterization of service.

b. **Applicant Contention(s)/Issue(s):** The applicant seeks relief contending in effect, a discharge upgrade based on clemency, equity, propriety, and circumstance, referencing the Hagel Memo and post traumatic-stress disorder (PTSD)-related policies. The applicant contends the discharge was improper and inequitable, citing untreated PTSD resulting from an intense 13-month combat deployment, lack of access to clinical support, and failure of the command to follow established substance abuse protocols. The applicant also contends the misconduct was a manifestation of a mental health condition and current policies would have led to a different outcome. Additionally, the applicant highlights post-service achievements—including professional licensure, business ownership, and community contributions—as evidence of rehabilitation and good citizenship. The applicant seeks an upgrade to an honorable discharge restoration of Department of Veterans Affairs (VA) benefits and eligibility for military burial.

Board Type and Decision: In a records review conducted on 28 August 2025, and by a 5-0 vote, the Board determined the discharge was inequitable. It granted relief by upgrading the characterization of service to Honorable, changing the separation authority to AR 635-200, paragraph 14-12a, and revising the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board also determined that the RE Code was proper and equitable and voted to leave it unchanged.

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Court-Martial, Other / AR 635-200, chapter 3 / JJD / RE-4 / Bad Conduct

b. **Date of Discharge:** 8 February 2008

c. Separation Facts:

(1) **Pursuant to Special Court-Martial empowered to adjudge a BCD:** Special Court-Martial Order 24 shows the applicant pled guilty and was found guilty of three specifications of wrongful marijuana use and one specification of wrongful possession of some amount of marijuana (less than one gram) between July and October 2006.

(2) **Adjudged Sentence:** The adjudged sentence included a reduction to pay grade E-1, confinement for 3 months, and to be discharged from the service with a BCD.

(3) Date / Sentence Approved: 5 April 2007 / Reduction to pay grade E-1, confinement for 3 months, and a BCD. Except for the part of the sentence extending to a BCD would be executed. The applicant was credited with 7 days confinement.

(4) Appellate Reviews: The Record of Trial was forwarded to The Judge Advocate General of The Army for review by the Court of Military Review. The United States Army Court of Criminal Appeals affirmed the approved findings of guilty and the sentence on 11 July 2007.

(5) Date Sentence of BCD Ordered Executed: 21 November 2007

4. SERVICE DETAILS:

a. Date / Period of Enlistment/Reenlistment Under Review: 5 February 2004 / 4 years and 16 weeks

b. Age at Enlistment / Education / GT Score: 19 / HS Graduate / 114

c. Highest Grade Achieved / MOS / Total Service: E-4 / 13F10 Fire Support Specialist / 3 years, 9 months, 19 days

d. Prior Service/ Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (1 January 2005 - 15 January 2006)

f. Awards and Decorations: ARCOM, NDSM, GWOTEM, ASR, OSR, and CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Special Court-Martial Order as described in previous paragraph.

i. Lost Time / Mode of Return: 75 days (Confinement, 8 November 2006 - 22 January 2007) / Release from Confinement

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

(1) Applicant provided: Limited Mental Health Evaluation, 3 January 2021, from P.M., PHD., LMFT Elite Evaluation, Plantation, FL, showing the applicant experienced trauma as a result of witnessing and experiencing violence while serving in the military. Doctor P.M. determined the applicant's diagnosis of PTSD clearly met per criteria as set forth in the diagnostic and statistical manual (DSM-V) of the American Psychiatric Association. (ICD-10-CM Diagnosis Code F43.12).

(2) AMHRR provided: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, DD Form 2808 (Report of Medical Examination); Personal Statement; Memoranda for Record (MFR) authorizing confirming missing documents from the official military personnel file; memorandum authorizing wear of the

ICM; DD Form 214 (Certificate of Release or Discharge from Active Duty); Enlisted Record Brief; University of Maine Certificate of Achievement in recognition of receiving the American Institute of Architects-Maine Chapter Scholarship; Civilian Community Service Award; Warranty Deed; and Certificate of Information.

6. POST SERVICE ACCOMPLISHMENTS: Certificate of Achievement from the University of Maine at Augusta in recognition of receiving the American Institute of Architects-Maine Chapter Scholarship on 6 May 2012; Certificate from the University of Maine showing outstanding service to the community on 25 April 2012; Bachelor of Arts Degree in Architecture on 11 May 2013; Master of Architecture Degree on 15 May 2016; and Architect License on 1 April 2020.

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 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 PTSD), 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 under other than honorable conditions 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 (ADRB), sets forth the policies and procedures under which the ADRB 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 ADRB 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 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.

g. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel. Chapter 3, Section II provides the authorized types of characterization of service or description of separation. It states:

(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) A BCD will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a BCD. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD.

(5) In view of the relevant and material facts stated in a court-martial specification are presumed by the ADRB to be established facts, issues relating to the applicant's innocence of charges for which he was found guilty cannot form a basis for relief. With respect to a discharge adjudged by a special court-martial, the action of the ADRB is restricted to upgrades based on clemency. Clemency is an act of leniency that reduces the severity of the punishment.

8. Summary of Fact(s): Standard of Review. The ADRB considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. The applicant requests an upgrade to honorable based on clemency, equity, propriety, and circumstance, referencing the Hagel Memo and PTSD-related policies. The applicant's AMHRR, the issues and the documents submitted with the application were carefully reviewed.

b. The applicant contends the discharge was improper and inequitable, citing untreated PTSD resulting from an intense 13-month combat deployment, lack of access to clinical support, and failure of the command to follow established substance abuse protocols. The applicant submitted no evidence to support these contentions. The applicant submitted a limited mental health evaluation that was received in 2021 which was more than 12 years after the date of discharge. The AMHRR does not include any evidence of arbitrary or capricious actions by the chain of command. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

c. The applicant also contends the misconduct was a manifestation of a mental health condition and current policies would have led to a different outcome. The applicant submitted a limited mental health evaluation that was received in 2021 reflecting a diagnosis of PTSD clearly met the criteria as set forth in the diagnostic and statistical manual (DSM-V) of the American

Psychiatric Association. (ICD-10-CM Diagnosis Code F43.12). The applicant's AMHRR includes no documentation of PTSD or any other mental health diagnosis prior to discharge.

d. The applicant highlights post-service achievements—including professional licensure, business ownership, and community contributions—as evidence of rehabilitation and good citizenship. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

e. The applicant seeks an upgrade to Honorable Discharge to restore VA benefits and secure eligibility for military burial. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memorandum 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.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed post-service by a civilian provider with combat-related PTSD. It is more likely than not that the applicant's PTSD existed during 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 was diagnosed post-service by a civilian provider with combat-related PTSD. It is more likely than not that the applicant's PTSD existed at the time of the misconduct that led to the separation. Given the nexus between PTSD and using substances for self-medication, the possession and uses of marijuana that led to the separation are mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition or experience outweighed the basis of separation.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends the discharge was improper and inequitable, citing untreated PTSD resulting from a 13-month combat deployment, lack of access to clinical support, and failure of the command to follow substance abuse protocols. The applicant further asserts that the misconduct was a manifestation of a mental health condition and that, under

current policies, the outcome would likely have been different. The Board considered this contention and determined that the applicant's PTSD mitigated the misconduct, warranting an upgrade in characterization to Honorable

(2) The applicant seeks an upgrade to Honorable Discharge to restore VA benefits and secure eligibility for military burial. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

d. The Board determined The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighed the applicant's use of illegal drugs basis of 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, 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. 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) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

(2) The Board voted to change the applicant's characterization of service to Honorable, because, after applying liberal consideration to all evidence, including the applicant's post-service diagnosis of combat-related PTSD, it was determined that the condition more likely than existed at the time of the misconduct and mitigated the offenses of marijuana possession and use. Thus the prior characterization is no longer valid.

(3) The Board voted to change the applicant's reason for discharge Minor Misconduct with accompanying SPD code of JKN, under the same pretexts..

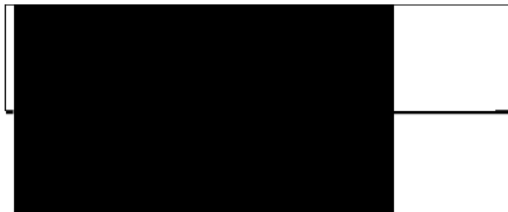
(4) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD DISCUSSION AND DETERMINATION:

- 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:

9/10/2025



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
FTR – Failure to Report

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