

1. Applicant's Name: [REDACTED]**a. Application Date:** 6 January 2022**b. Date Received:** 11 March 2022**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is General (Under Honorable Conditions). The applicant requests an updated to Honorable and a change of their narrative reason for separation.

(2) The applicant seeks relief contending they were discharged as a result of an Administrative Separation Board that was held in February 2021. The board's decision was based solely on a civilian arrest. Their unit did not complete an investigation or even questioned them. They have not been to court and all charges have been dismissed and subsequently expunged. After their discharge in June 2021, the Department of Veterans Affairs (VA) awarded them with service connection of a 100-percent combined rating with 70-percent due to Traumatic Brain Injury (TBI) and Post Traumatic Stress Disorder (PTSD) for their deployment to Afghanistan. They believe the evidence they have presented illustrates their discharge was inequitable and unjust. They are requesting a discharge upgrade to Honorable to more accurately reflect their 20 years of service.

b. Board Type and Decision: In a records review conducted on 26 January 2026, and by a 3-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (Combat Trauma). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reenry 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.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Serious Offense) / Army Regulation 635-200, Paragraph 14-12C / JKQ / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 28 June 2021

c. Separation Facts: The applicant's case separation file is void from their AMHRR. On 11 October 2022 the Army Review Boards Agency requested the applicant provide their discharge packet (case separation files), the applicant provided their discharge orders, notification to appear before standing board separation and the Administrative Separation Board Proceedings; however, the applicant did not provide a case separation file.

4. SERVICE DETAILS:

a. Date / Period of Reenlistment: 4 October 2017 / 3 years

b. Age at Reenlistment / Education / GT Score: 35 / Bachelor's Degree / NIF

c. Highest Grade Achieved / MOS / Total Service: E-7 / 74D4O, Chemical Operations Specialist / 21 years, 4 months, 15 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (6 September 2013 – 29 April 2014) and Kuwait (24 August 2018 – 26 June 2019)

f. Awards and Decorations: ACM-CS, ARCOM-2, AAM, NDSM, GWTEM, GWTSMT, NCOPDR-3, ASR, OSR, AFRM-20-year, AFRM-MNATOMDL

g. Performance Ratings:

- March 2005 – 30 March 2011 / Fully Capable
- 31 March 2011 – 30 March 2012 / Among the Best
- 31 March 2012 – 31 January 2013 / Fully Capable
- 1 February 2013 – 31 January 2014 / Fully Capable
- 1 February 2014 – 13 July 2014 / NIF
- 14 July 2014 – 13 July 2015 / Fully Capable
- 14 July 2015 – 3 December 2016 / NIF
- 4 December 2016 – 16 May 2019 / Highly Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) A Myrtle Beach Police Department Incident/Investigation Report dated 14 April 2020 reflects the applicant as the suspect with the crime incident shown as Drug/Narcotics Violation. The Incident/Investigation Report reflects –

(a) on 15 April 2020, the applicant was observed traveling in their vehicle and their license plate appeared to be improperly displayed with a plastic cover and a traffic stop was initiated. K-9 Officer responded to the traffic stop and the K-9 gave a positive alert on the passenger side of the vehicle. A search of the vehicle was conducted and located in a plastic shopping bag two plastic cut off bags which contained a white powdery residue. Located inside the center console glove compartment was an orange pill bottle contained 58 pills which were identified as four separate Schedule II Narcotics. The pill bottle contained four types of schedule Oxycodone, which require a prescription. The applicant did not have a valid prescription at the time of the stop and the Narcotics found were seized. The applicant was advised on the Narcotics located and was informed to provide a valid prescription when they return to Fort Bragg. The applicant was then released pending further investigation.

(b) Four Warrants for possession of a Schedule II Narcotic were submitted. Prior to the applicant's traffic stop, there were observed driving to an apartment complex, an individual entered the applicant's passenger side of their vehicle. The individual was on scene for less than a minute. Based on knowledge, training, and experience, the applicant's actions were consistent with that of a drug transaction. The residence in question is a known Narcotics location.

(c) On 27 April 2020, the applicant emailed several documents in relation to the Narcotics they were prescribed. The applicant listed several Oxycodone Hydrochloride as being the pills seized in this investigation. During further review of the prescribed medication, the

dosage on the prescribed pills did not match the dosage of the seized narcotics located during the traffic stop.

(d) On 9 May 2020, the investigator was out with the applicant at the police department. The applicant was ran through National Crime Information Center and showed an active warrant out of Myrtle Beach. The applicant was arrested and brought to Myrtle Beach Jail.

(2) A DA Form 4856 (Developmental Counseling Form) dated 7 May 2020, reflects the applicant received event related counseling from their battalion commander for, arrest warrants issued by the Myrtle Beach Police Department, violation of the 50-mile radius order, initiating of Flags for Police Investigation and Involuntary separation. The Key Points of Discussion reflects on 15 April 2020, in an area of Myrtle Beach, SC, the applicant was suspected of partaking in a drug deal and upon leaving the drug deal they were stopped by police and vehicle searched, 58 pills were discovered of Oxycodone and Percocet. They were released with the stipulation was they were to send back medical records that showed they had been prescribed these pills. The prescriptions they submitted did not support the claims made by them and therefore the Myrtle Beach Police Department issued four warrants for their arrest. The applicant did not have an approved leave/pass or exception to policy to trave outside of the 50-mile radius of Fort Bragg designated by an order. The commander informed the applicant of the initiation of chapter proceedings. The applicant agreed with the information, provided no remarks and signed the counseling form.

(3) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UMCJ)), dated 28 June 2020, reflects the applicant received nonjudicial punishment, in that the applicant, having knowledge of a lawful order, an order which it was their duty to obey, did, at or near Fort Bragg, NC, on or about 15 April 2020, fail to obey the same by wrongfully violating the 50-mile travel restriction by traveling to Myrtle Beach, SC, in violation of Article 92, UMCJ. The forfeiture of \$500.00 pay and restriction for 30 days. The applicant elected not to appeal.

(4) A Headquarters, 81st Readiness Division (USAR, Orders 21-167-00018, dated 16 June 2021, reflects the applicant discharge from the USAR with a type of discharge of General (Under Honorable Conditions), effective 28 June 2021.

(5) A DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant was discharged from the U.S. Army on 28 June 2021, shows in:

- item 18 (Remarks) – MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 26 (Separation Code) – JKQ
- item 27 (Reentry Code) – RE-3
- item 28 (Narrative Reason for Separation) – Misconduct, (Serious Offense)

(6) The applicant's South Carolina, in the Court of General Session, Order for Destruction of Arrest Records – Diversion Disposition, dated 22 October 2021, reflects the applicant is entitled to have all records, including any outstanding associated bench warrants, relating to this offense expunged and destroyed or sealed according to the applicable section of the South Carolina Code of Laws. The charge covered by this order was dismissed because of successful completion of the Pre-Trial Intervention Program.

i. **Lost Time / Mode of Return:** NA

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:** VA Rating Decision reflecting service connection for TBI with PTSD and vertigo granted with an evaluation of 70-percent.

(2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Discharge Orders
- DA Form 137-2 (Installation Clearance Record)
- Notification to Appear before Standing Board
- Administrative Separation Board Proceedings
- DD Form 214
- Solicitor’s Intervention Programs Dismissal Request
- South Carolina Order for Destruction of Arrest Records – Diversion Disposition
- VA Decision Letter with Rating Decision
- VA Service-Connected Letter

6. POST SERVICE ACCOMPLISHMENTS: None submitted with application.

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (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, Title 10 U.S. Code, Section 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. Army Regulation 15-180 (Army Discharge Review Board) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

c. 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.

d. 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.

e. 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.

f. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) prescribes policies and standards to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. It prescribes the policies, procedures, authority for separation of Soldiers, and the general provisions governing the separation of Soldiers before ETS or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

(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. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 14 (Separation for Misconduct) establishes policy and prescribes procedures for separating personnel for misconduct because of minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, and absence 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. Paragraph 14-12c (Commission of a Service Offense), stated 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 (Secretarial Plenary Authority), currently in effect, 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. If Secretarial Authority is granted normally correct the record to show the following:

- 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

g. 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 14-12c, misconduct (serious offense).

h. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DoD Instruction 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 waivable. Eligibility: Ineligible unless a waiver is granted.

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

i. Manual for Courts-Martial, United States (2019 Edition) stated, 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 order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following, Article 92 (Failure to obey order or regulation) and Article 112a (Wrongful Possession of Controlled Substances).

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. A review of the available evidence provides an administrative irregularity in the proper retention of records, specifically the AMHRR is void of the case files for approved separation. Due to the lack of evidence the specific facts and circumstances surrounding the misconduct to be discharged under the provision on Army Regulation 635-200, paragraph 14-12c are unknown. However, the available evidence does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which provides the applicant was discharged under the provisions of Army Regulation 635-200, paragraph 14-12c, by reason of Misconduct (Serious Offense), with a characterization of service of General (Under Honorable Conditions).

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 DoD 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.

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 diagnosis: PTSD. Additionally, applicant asserts TBI.

(2) Did the condition exist, or experience occur during military service? **Yes.** Combat Trauma existed and occurred 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 given the service-connected trauma occurred prior to the misconduct and nexus between trauma and substance abuse, possession of narcotics is mitigated. While traveling outside the 50-mile radius is not directly mitigated, the Board could consider the act secondary to the mitigated self-medication.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD outweighed the remaining misconduct or traveling outside the 50 mile radius without a pass.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends they were discharged as a result of an Administrative Separation Board that was held in February 2021. The board's decision was based solely on a civilian arrest. Their unit did not complete an investigation or even questioned them. The applicant contends they have not been to court and all charges have been dismissed and subsequently expunged. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance possession offense.

(3) The applicant contends after their discharge in June 2021, the VA awarded them with service connection of a 100-percent combined rating with 70-percent due to TBI and PTSD for their deployment to Afghanistan. The Board considered this contention, and there was no recorded TBI while in service, and a 10% SC from the VA is not persuasive to the Board. However, the applicant is SC for PTSD which mitigates the applicant's offenses of possessing illegal substances.

d. The Board determined: There is partial mitigation for the misconduct related too illegal substances; however, the misconduct related to traveling outside the 50-mile radius is not mitigated medically. The applicant's trauma was determined to be prior to the misconduct, and they have been service connected with PTSD by the VA. After applying liberal consideration during the Board discussion, the applicant was granted full mitigation as the non-mitigated misconduct was not considered egregious and was considered secondary to the mitigated offense. Additionally, the Board considered the applicant two combat tours of 9 and 10 months

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to Afghanistan and Kuwait, respectively, as well as length and quality. The Board voted unanimously, 3-0, to upgrade.

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 the applicant's Post Traumatic Stress Disorder outweighed the applicant's misconduct of drug possession. Thus, the prior characterization is no longer appropriate.

(3) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

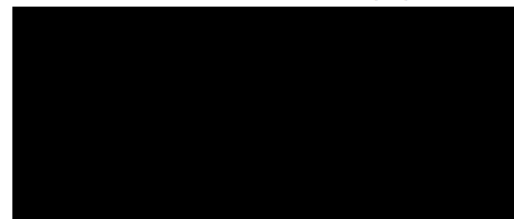
(4) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. 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:** No Change

Authenticating Official:

1/28/2026



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