

**1. Applicant's Name:** [REDACTED]

a. **Application Date:** April 05, 2022

b. **Date Received:** April 05, 2022

c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. **Applicant Requests:** The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and change the separation code.

b. **Applicant Contention(s)/Issue(s):** The applicant requests relief contending, they are a different person than when they illegally used marijuana. Since then, they have had two children, gained a clearer understanding of real-world responsibilities, and realized how much they took for granted while serving. They believed they could make the Army a career by remaining physically fit and mentoring Soldiers to avoid the mistakes they made. They now seek to only have their separation code changed so they may reenlist and work toward becoming the leader they aspire to be.

c. **Board Type and Decision:** In a records review conducted on 28 January 2026, and by 3-0 vote, the Board determined that the characterization of service was too harsh based on the applicant's length and quality of service outweighed the applicant's use of THC and as a result it is inequitable. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to honorable. The Board determined the narrative reason, SPD code, and RE code were proper and equitable and voted not to change them Please see **Board Discussion and Determination** section for more detail regarding the Board's decision.

**3. DISCHARGE DETAILS:**

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

b. **Date of Discharge:** 30 July 2021

c. **Separation Facts:** The case separation files were not properly stored in the Army Military Human Resource Record (AMHRR); however, the available details are provided below.

(1) **Date of Notification of Intent to Separate:** 17 May 2021

(2) **Basis for Separation:** On or between 25 September – 26 October 2020, the applicant wrongfully used Tetrahydrocannabinol (THC), a scheduled I controlled substance.

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

(4) **Legal Consultation Date:** 20 May 2021 / The applicant elected to consult with legal and elected to provide a statement on their behalf; however, no such statement(s) were found in the record.

(5) **Administrative Separation Board:** NA

**(6) Separation Decision Date / Characterization:** 22 June 2021 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment Under Review:** 23 January 2018 / 3 years, 30 weeks

**b. Age at Enlistment / Education / GT Score:** 18 / High School Diploma / 108

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92R1P OO Parachute Rigger / 3 years, 6 months, 8 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** NDSM, GWOTSM, HSM, ASR, PB

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** On 17 November 2020, the Army Substance Abuse Program (ASAP) Coordinator, informed the command of the applicant's positive urinalysis for wrongful use of Tetrahydrocannabinol (THC) and provided the required actions such as to refer the Soldier to the Substance Use Disorder Clinical Care (SUDCC) for an evaluation/assessment within five duty days, initiating a FLAG, such as notifying local CID (Criminal Investigation Division), and to comply with administrative guidance under AR 635-200.

**(1)** A Report to Suspend Favorable Personnel Actions (FLAG), dated 18 November 2020, provides the applicant was flagged on 18 November 2020, for adverse action (AA). At some point, they were additionally flagged for field-initiated involuntary separation (BA) and this flag was removed effective 12 July 2021, due to other final action.

**(2)** A Record of Proceedings Under Article 15, UCMJ, dated 29 December 2020, provides the applicant received nonjudicial punishment (NJP) for wrongful use of Tetrahydrocannabinol (THC), a schedule I controlled substance on or between 25 September – 26 October 2020, in violation of Article 112a, UCMJ. Their punishment imposed a reduction to Private First Class (PFC); suspended forfeitures of \$1,085.00 pay; and 30 days of extra duty.

**(3)** A Report of Mental Status Evaluation, dated 7 April 2021, provides the applicant was psychiatrically cleared for administrative proceedings with no diagnoses or recommendations listed.

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

**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:** None

**(2) AMHRR provided:** None

**5. APPLICANT-PROVIDED EVIDENCE:** Online Application for the Review of Discharge; Self-Authored Statement

**6. POST SERVICE ACCOMPLISHMENTS:** They have had two children and has gained a clearer understanding of real-world responsibilities.

**7. 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.

**a.** 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.

**b.** 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.

**c.** 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.

d. 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.

e. 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.

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:

(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.

**g.** Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

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

**(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.

**(2)** Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. 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 pattern of misconduct consisting of one of the following – discreditable involvement with civil or military authorities, or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army. 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. If Secretarial Authority is granted, it will 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

**h.** 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), Misconduct (Drug Abuse).

i. Manual for Courts-Martial (2019 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 schedule I controlled substance) states in the subparagraph, the maximum punishment consists of dishonorable discharge, forfeiture of all pay and allowances, and confinement for 2 years.

**8. SUMMARY OF FACT(S):** Standard of Review. 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 and change the separation code. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

(1) An authenticated DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged under the provisions of AR 635-200, Chapter 14-12c (2) for misconduct (drug abuse) with a general (under honorable conditions) characterization of service. In December 2020, the applicant received NJP for wrongful use of Tetrahydrocannabinol (THC) which resulted in a reduction to PFC. The applicant elected to consult with counsel and elected to provide a statement on their behalf; however, no statement(s) were found in the record.

(2) The applicant requests relief contending, they are a different person than when they illegally used marijuana. Since then, they have had two children, gained a clearer understanding of real-world responsibilities, and realized how much they took for granted while serving. They believed they could make the Army a career by remaining physically fit and mentoring Soldiers to avoid the mistakes they made. They now seek to only to have their separation code changed so they may reenlist and work toward becoming the leader they aspire to be.

b. 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.

#### **9. BOARD DISCUSSION AND DETERMINATION:**

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Adjustment DO with mixed anxiety and depressed mood.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found diagnosis of Adjustment DO with mixed anxiety and depressed mood was made during active duty.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there are no mitigating BH conditions. While the applicant was diagnosed with Adjustment DO with mixed anxiety and depressed mood, this condition arose because of testing positive for THC and being informed the applicant would be separated from the Army. This condition did not precede nor contribute to applicant's wrongful use of THC.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's Adjustment DO with mixed anxiety and depressed mood outweighed the unmitigated offense of THC use for the aforementioned reason(s).

**b. Prior Decisions Cited: N/A**

**c. Response to Contention(s):** The applicant requests relief contending, they are a different person than when they illegally used marijuana. Since then, they have had two children, gained a clearer understanding of real-world responsibilities, and realized how much they took for granted while serving. They believed they could make the Army a career by remaining physically fit and mentoring Soldiers to avoid the mistakes they made. They now seek to only have their separation code changed so they may reenlist and work toward becoming the leader they aspire to be.

The Board determined that this contention was valid and voted to upgrade the characterization of service due to applicant's length and quality of service outweighed the applicant's use of THC.

**d.** The Board determined that the characterization of service was too harsh based on the applicant's length and quality of service outweighed the applicant's use of THC and as a result it is inequitable. However, the applicant may request a telephonic personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**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 characterization of service was too harsh based on the applicant's length and quality of service outweighed the applicant's use of THC and as a result it is inequitable. Thus, the prior characterization is no longer appropriate.

(3) The Board voted not to change the applicant's reason for discharge or accompanying SPD code because the use of THC was not fully mitigated, as the reason the applicant was discharged was both proper and equitable.

(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 / Separation Order:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD code to:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

**Authenticating Official:**

2/24/2026



