

1. Applicant's Name: [REDACTED]**a. Application Date:** 17 January 2022**b. Date Received:** 24 January 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 honorable characterization of service.

b. Applicant Contention(s)/Issue(s): The applicant requests relief contending, in effect, the applicant should have been discharged after a positive urinalysis but was instead deployed to Afghanistan and discharged over a year later for the same offense. The applicant acknowledges having made a mistake at age 19 by using marijuana with a close friend prior to deployment. However, the applicant demonstrated commitment and resilience throughout the deployment, which can be corroborated by both superiors and peers. Furthermore, the applicant was informed that the reviewing officer had recommended an honorable discharge based on the circumstances, but this recommendation was not followed. Instead, the applicant was made an example of, despite others committing more severe infractions and receiving minimal disciplinary action.

c. Board Type and Decision: In a records review conducted on 28 January 2026, and by a 3-0 vote, the Board determined the discharge is inequitable based on the applicant's MDD and PTSD mitigated the applicant's marijuana use. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to 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. Please see Board Discussion and Determination section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 2 December 2009

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 28 October 2009

(2) Basis for Separation: The applicant was informed of the following reasons: the applicant wrongfully used marijuana. In addition, the applicant was diagnosed with anxiety disorder (Not Otherwise Specified), major depression, and alcohol dependence.

(3) Recommended Characterization: Honorable

(4) Legal Consultation Date: 4 November 2009

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 20 November 2009 / General
(Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment Under Review: 14 June 2007 / 3 years, 16 weeks

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

c. Highest Grade Achieved / MOS / Total Service: E-3 / 11B1O, Infantryman / 2 years, 5 months, 19 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (14 March 2008 - 6 March 2009)

f. Awards and Decorations: ACM-CS, ARCOM, NDSM, GWOTSM, ASR, OSR, NATO Medal, CIB

g. Performance Ratings: N/A

h. Disciplinary Action(s) / Evidentiary Record: A DD Form Electronic Copy of Specimen Custody Document – Drug Testing, 3 March 2008, indicates the applicant tested positive for THC 51 (marijuana) during an Inspection Random (IR) urinalysis testing conducted on 20 February 2008.

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 Listed: A MEDCOM Form 4038 (Report of Behavioral Health Evaluation (BHE)), 29 July 2009, reflects the applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The applicant was cleared for any administrative actions deemed appropriate by the command. Additionally, this form shows the applicant was diagnosed with “Anxiety Disorder NOS, Major Depression (mild, controlled with meds), Alcohol Dependence.”

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States); Memorandum: Subject, Separation Under AR 635-200, Chapter 14-12c(2), Misconduct-Abuse of Illegal Drugs...; and a DD Form 214 (Certificate of Release or Discharge from Active Duty)

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

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 Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

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

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

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

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of

misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

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

e. Army Regulation 15-180 (Army Discharge Review Board) sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

f. Army Regulation 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 (Active Duty Enlisted Administrative Separations) 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.

(a) Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(b) Paragraph 3-7a states 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.

(c) Paragraph 3-7b states 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 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) Paragraph 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(b) Paragraph 14-3 prescribes 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.

(c) 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 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, misconduct (drug abuse).

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

b. The applicant's Army Military Human Resources Record (AMHRR) reflects the applicant was discharged for the wrongful use of marijuana, and in addition the applicant was diagnosed with an anxiety disorder (Not Otherwise Specified), major depression, and alcohol dependence. The AMHRR includes a properly constituted DD Form 214, which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 14, paragraph 14-12c (2), by reason of Misconduct (Drug Abuse), with a characterization of service of general (under honorable conditions).

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 DoD and VA medical records and found mitigating BH diagnoses PTSD and MDD on the applicant. The applicant provided documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused or mitigated a discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found MDD was diagnosed during active service; VA service connection for PTSD establishes nexus with 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 has two mitigating BH conditions, MDD and PTSD. [Note-diagnosis of Anxiety DO NOS is subsumed under PTSD. As there is an association between MDD, PTSD and use of illicit drugs to self-medicate, there is a nexus between these diagnoses and the applicant's wrongful use of marijuana.

(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: N/A

c. Response to Contention(s):

(1) The applicant contends the applicant should have been discharged after a positive urinalysis but was instead deployed to Afghanistan and discharged over a year later for the same offense. The decision to retain and later separate the applicant was within the command's discretion and consistent with Army policy, which allows for administrative processing timelines and operational considerations. 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 PTSD and MDD outweighing the applicant's wrongful use of THC.

(2) The applicant contends the applicant demonstrated commitment and resilience throughout the deployment, which can be corroborated by both superiors and peers. The applicant contends good service, including a combat tour. The Board evaluated the applicant's service accomplishments and overall quality of service in accordance with DODI 1332.28. 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 PTSD and MDD outweighing the applicant's wrongful use of THC.

(3) The applicant contends the applicant was informed that the reviewing officer had recommended an honorable discharge. The applicant's company commander recommended an honorable characterization of service; however, the intermediate commanders and the separation authority are not bound by the immediate commander's recommendation as to the character of service, and as such, the approval authority approved a general (under honorable conditions) character of service. 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 PTSD and MDD outweighing the applicant's wrongful use of THC.

(4) The applicant contends the applicant was made an example of, despite others committing more severe infractions and receiving minimal disciplinary action. However, the applicant provided no supporting evidence beyond their statement. The AMHRR provides no evidence of procedural error or injustice in the discharge, nor documentation showing others received preferential treatment for more severe infractions. 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 PTSD and MDD outweighing the applicant's wrongful use of THC.

d. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board concurred with the conclusion of the medical advising official that the applicant's medical diagnosis (PTSD and MDD) mitigates the basis of separation (wrongful use of THC) and warrants a change to the character and narrative reason for separation. Based on a preponderance of evidence, the Board determined that the reason for the applicant's separation was inequitable. The Board voted to retain the reentry code based on the medical diagnosis.

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 because, despite applying liberal consideration of all the evidence before the Board, the applicant's BH diagnoses PTSD and MDD mitigated the offenses of wrongful use of THC.

(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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

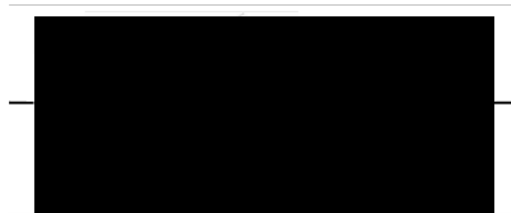
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10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD code to: Misconduct (Minor Infractions) / JKN
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200, paragraph 14-12a

Authenticating Official:

2/24/2026



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