

1. Applicant's Name: [REDACTED]**a. Application Date:** 10 May 2022**b. Date Received:** 10 May 2022**c. Counsel:** NA**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 Under Other Than Honorable Conditions. The applicant requests an upgrade to Honorable or General (Under Honorable Conditions, a change of the narrative reason for separation, and a personal appearance before the Board.

(2) The applicant seeks relief contending they made a mistake while on leave by using illegal substances after returning from their first deployment. Up until their misconduct they served the country honorably, earning the rank/grade of sergeant/E-5 in three and half years, deployed to Iraq in a combat area and lost a one close friend. They wished their commander would have allowed them to get the help through counseling and eventually earning their rank back. After their discharge they paid back all they owed the Army. They have married and have four children. With an upgrade to their discharge they hope to buy their family a home. By looking at their Enlisted Record Brief and DD Form 214 (Certificate of Release or Discharge from Active Duty) they hope their achievements outweigh the childish mistake they made.

(3) Their military service was marked by numerous traumatic events that profoundly affected their mental health. Their discharge was a result of action influenced by severe, service connected Post Traumatic Stress Disorder (PTSD), which was not adequately addressed during their service. Their experience while deployed to Iraq led to the development of severe PTSD. In an attempt to cope with their overwhelming symptoms, they turned to alcohol and substance abuse.

(4) Multiple Department of Defense (DoD) Policy Guidance Memoranda published between 2014 and 2018 all emphasize the importance of considering the impact of mental health conditions on the behavioral leading to discharge. It is crucial to acknowledge that with proper mental health treatment and support, their actions would have been different. They have made significant efforts to seek treatment and improve their mental health since their discharge, further underscoring their commitment to recovery and honorable conduct. An upgrade to Honorable would not only rectify the injustice done but also provide them with the necessary benefits and support to continue their recovery. They believe that if their PTSD had been properly diagnosed and considered at the time, their discharge would have been processed under other designated physical or mental conditions instead of commission of a serious offense.

b. Board Type and Decision: In a records review conducted on 15 July 2025, and by a 5-0 vote, the Board determined that the applicant's Adjustment Disorder with Depressed Mood, and combat-related PTSD mitigated the applicant's wrongful use and possession of illegal drugs, basis of separation. The Board voted to change the characterization to Honorable and the reason for discharge to Misconduct (Minor Infractions), with a corresponding SPD code of JKN. The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 27 September 2011

c. Separation Facts:

(1) Date of Notification of Intent to Separate: on 29 June 2011

(2) Basis for Separation: the use of illegal narcotics brings the Soldier's ability to complete the mission into question. Their lack of discipline directly affects the morale and discipline of the unit, and the applicant's presence would only serve as a distraction.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: 7 July 2011

(5) Administrative Separation Board: on 7 July 2011 the applicant conditionally waived consideration of the case before an administrative separation board.

(6) Separation Decision Date / Characterization: 11 August 2011 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Reenlistment: 24 July 2007 / 6 years, 21 weeks

b. Age at Reenlistment / Education / GT Score: 18 / HS Graduate / 104

c. Highest Grade Achieved / MOS / Total Service: E-5 / 13F1P, Fire Support Specialist / 4 years, 1 month, 4 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (11 December 2008 – 15 November 2009)

f. Awards and Decorations: ARCOM, AGCM, NDSM, GWTSM, ICM-2CS, ASR, OSR

g. Performance Ratings: NIF

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 7096 (Army Substance Abuse Program (ASAP)) dated 11 June 2010 reflects the applicant was enrolled in ASAP on 1 April 2010. They completed the Prime For Life Program. The applicant denies any alcohol or substance use and abuse. They achieved their goals in ASAP by obtaining education of alcohol/drugs and followed the rules of ASAP. They have maintained good coping skills throughout ASAP, despite they do not have any diagnosis.

(2) A DA Form 4856 (Developmental Counseling Form) dated 2 November 2010 reflects the applicant received event oriented counseling from their Noncommissioned Officer (NCO). The Key Points of Discussion states, on 7 October 2010, while deployed to Joint Readiness Training Center (JRTC) the applicant brought to the attention they had a problem with Heroin. This came after a company urinalysis on 27 September 2010 and a self-referral to Mental Health two days prior to leaving for JRTC. The NCO informed the applicant they are being command referred to ASAP and that now is their chance to get the help they need. The NCO stated, "Take advantage of this opportunity and learn what you can from your mistakes." The applicant agreed with the information, provided no remarks, and signed the counseling form.

(3) A DA Form 2823 (Sworn Statement) dated 3 November 2010 reflects the applicant's sworn statement, stating, in effect, on or about 27 September 2010 they drove to Murchison Road to look for drugs. They were going through a rough time and thought getting high was their best answer. They bought ten bags of Heroin and then they started to shoot it up. They did this about every three days for two weeks. They then went to JRTC where they went through withdrawals for about a week. Since the withdrawals ended they have not had any thoughts to do Heroin or will they ever be around the drug again. Since the start of JRTC they have not had any Heroin in their possession.

(4) A DA Form 8003 (ASAP Enrollment) dated 19 November 2010 reflects the applicant's command referral to the ASAP for a comprehensive assessment to determine whether or not they meet the criteria for enrollment. The Clinical Counselor determined in an effort to assist the applicant with their problem the action taken would be rehabilitation.

(5) A DA Form 4856 (Developmental Counseling Form) dated 25 January 2011 reflects the applicant received event oriented counseling from their NCO for Failure of Company Urinalysis. The Key Points of Discussion states the applicant is being counseled because they failed a company urinalysis on 29 December 2010. The NCO informed the applicant of their recommendation that they be punished under the Uniform Code of Military Justice (UCMJ) and they be separated in accordance with Army Regulation 635-200, paragraph 14-12c. The applicant agreed with the information, provided no remarks, and signed the counseling form.

(6) A memorandum, U.S. Army Criminal Investigation Command (USACIDC), Fort Bragg, NC, subject: CID Report of Investigation, dated 1 February 2011, reflects the applicant as the named subject in violation of Wrongful Possession of a Controlled Substance (Hallucinogens), Wrongful Possession of a Controlled Substance (Heroin, Codeine, D-Amphetamine, D-Methamphetamine), Wrongful Use of a Controlled Substance (Ecstasy) and Wrongful Use of a Controlled Substance (Heroin, Codeine, D-Amphetamine, D-Methamphetamine); with a date of occurrence of 27 December 2010. The Investigative Summary reflects on 25 January 2011, the Installation Bio-Chemical Testing Center reported the applicant tested positive for heroin, codeine, d-amphetamine, d-methamphetamine, morphine, and methylenedioxy-amphetamine during a unit urinalysis on 29 December 2010. On 26 January 2011, Captain J ____ H ____, Staff Judge Advocate, 3rd Brigade Combat Team, opined there was probable cause to believe the applicant committed the offense of Wrongful Use and Possession of a Controlled Substance.

(7) A DD Form 458 (Charge Sheet) dated 8 March 2011 reflects charges were preferred against the applicant for violation of Article 112a, UCMJ. The Specification, in that the applicant, did, at or near Chino California, between on or about 24 December 2010 and on or about 29 December 2010, wrongfully use heroin, a schedule I controlled substance; Methylenedioxymethamphetamine, a schedule I controlled substance.

(8) In an Offer to Plead Guilty (Pretrial Agreement) dated 16 March 2011, the applicant, in a court-martial not pending, examined the charge preferred against them, and all of the supporting evidence. After consulting with their defense counsel and being fully advised that they have a legal and moral right to plead not guilty and to place the burden of proving their guilt beyond a reasonable doubt upon the government, they offer to plead guilty to the charges preferred against them on 8 March 2011.

(a) The applicant offer to plead guilty provided their case is adjudged as a Summary Court-Martial. They are satisfied with their defense counsel. Their offer to plead guilty is wholly voluntary, originated with them, and no person or persons have made any attempt to force or coerce them into making this offer to plead guilty. Their defense counsel has advised them of the meaning and effect of their guilty plea and they understand the meaning and effect thereof.

(b) As part of this offer, they unconditionally waive any right they have to an administrative separation board based on the misconduct to which they have plead guilty to, even if they are to be separated Under Other Than Honorable Conditions.

(c) They waived their right to submit statement on their behalf. They understand they may expect to encounter substantial prejudice in civilian life if a General (Under Honorable Conditions) or a discharge Under Other Than Honorable Conditions is issued to them. They further understand that if issued a less than honorable discharge, they may be ineligible for many or all veteran's benefits under both Federal and State laws to include but not limited to the Montgomery G.I. Bill. Additionally, they understand that a less than honorable discharge may adversely affect their ability to obtain civilian employment as employers may have a low regard for less than honorable discharges.

(9) A DA Form 4430 (DoD Report of Result of Trial) dated 23 March 2011 reflects at the applicant's Trial by Summary Court-Martial the plead guilty of the charges preferred against them and they were found guilty. The applicant sentence consisted of a reduction in rank/grade from specialist/E-4 to private/E-1, forfeiture of \$978.40 pay and to be confined for 30 days. The sentence was adjudged on 23 March 2011 and the effective date of forfeiture and reduction in grade is 30 March 2011.

(10) A DA Form 3822 (Report of Mental Status Evaluation) dated 20 June 2011 reflects the applicant is fit for full duty, including deployment. Section V (Diagnoses) reflects the Axis I (Psychiatric Conditions) diagnosis is deferred. Section VIII (Additional Comments) reflects the applicant screened negative for Post Traumatic Stress Disorder (PTSD) and mild Traumatic Brain Injury (TBI). The behavioral health provider states there is no evidence of an emotional or mental disorder of psychiatric significance at this time to warrant disposition through medical channels; therefore, the applicant is psychiatrically cleared for any administrative action deemed appropriate by command, including administrative discharge. The applicant had deployed once to Iraq from 2008-2009.

(11) A memorandum, Headquarters and Headquarters Company, 3rd Brigade Combat Team, 82nd Airborne Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 29 June 2011, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, paragraph 14-12c(2), for misconduct as described above in paragraph 3c(2). The company commander recommended the applicant's characterization of service as Under Other Than Honorable Conditions. On the same day, the applicant acknowledged the basis for the separation and of the right available to them.

(12) A memorandum, U.S. Army Trial Defense Service, Fort Bragg Trial Defense Center, subject: Waiver of Rights under Army Regulation 635-200 Administrative Board Procedures, dated 7 July 2011, reflects the applicant's acknowledgment of having been advised by their consulting counsel of the basis for the contemplated action to separate them for misconduct – abuse of illegal drugs, Army Regulation 635-200, paragraph 14-12c, and its effects; of the rights available to them, and of the effect of any action taken by them in waiving their rights.

(a) They understand they are entitled to have their case considered by an administrative separation board because they are being recommended for a separation Under Other Than Honorable Conditions. Prior to completing this form, they were afforded the opportunity to consult with consulting counsel. They have been advised of their right to submit a conditional waiver of their right to have their case considered by an administrative separation board. They elected to waive consideration of their case by an administrative separation board. They are making this request of their own free will and have not been subjected to any coercion whatsoever by any person.

(b) The elected not to submit statements in their own behalf. They understand they may expect to encounter substantial prejudice in civilian life if a General (Under Honorable Conditions) is issued to them. They further understand that as a result of the issuance of a discharge Under Other Than Honorable Conditions, they may be ineligible for many or all veteran's benefits under both Federal and State laws

(13) A memorandum, Headquarters and Headquarters Company, 3rd Brigade Combat Team, 82nd Airborne Division, subject: Commander's Report – Proposed Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 12 July 2011, the applicant's company commander submitted a request to separate them prior to their expiration term of service. The commander states they do not consider it feasible or appropriated to accomplish other disposition as, using no regard for military laws and regulations, the applicant made a conscious decision to use controlled substances. Their lack of discipline for these offenses and complete disregard to this unit proves that they are not fit for continued military service.

(14) A memorandum, Headquarters, 3rd Brigade Special Troops Battalion, 3rd Brigade Combat Team, 82nd Airborne Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 13 July 2011, the applicant's battalion commander recommended the applicant be separate from the U.S. Army prior to their expiration term of service. The commander recommended approval of the applicant's unconditional waiver and that their service be characterized as Under Other Than Honorable Conditions.

(15) A memorandum, Headquarters, 3rd Brigade Combat Team, 82nd Airborne Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, [Applicant], undated, the applicant's brigade commander recommended the applicant be separate from the U.S. Army prior to their expiration term of service. The commander recommended approval of the applicant's unconditional waiver and that their service be characterized as Under Other Than Honorable Conditions. The commander commented, misconduct for numerous drugs.

(16) A memorandum, Headquarters, 82nd Airborne Division, subject: Administrative Separation Pursuant to Army Regulation 635-200, Chapter 14, Section III, Paragraph 14-12c, Commission of a Serious Offense, dated 11 August 2011, the separation authority reviewed the unconditional waiver of administrative separation board proceedings submitted by the applicant.

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The commanding general directed the applicant be discharged from the Army with a characterization of service as Under Other Than Honorable Conditions.

(17) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 27 September 2011, with 4 years, 1 month, and 4 days of net active service this period. The DD Form 214 shows in:

- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 26 (Separation Code) – JKQ
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Misconduct, (Serious Offense)
- item 29 (Dates of Time Lost During This Period) – 20110323 - 20110422

i. **Lost Time / Mode of Return:** Military Confinement, 30 days (23 March 2011 – 22 April 2011 / Release from Military Confinement

j. **Behavioral Health Condition(s):**

(1) **Applicant provided:** Personal Health Information, Problem List History reflecting diagnosis of Suicidal Ideation dated 4 October 2010, Opioid Abuse dated 3 December 2010 and Adjustment Disorder with depressed mood dated 13 November 2012; and a Psychological Evaluation Report dated 9 May 2024 reflecting a diagnosis of PTSD.

(2) **AMHRR Listed:** none

5. APPLICANT-PROVIDED EVIDENCE:

- two DD Forms 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- excerpt of their Case Files for Approved Separations
- Enlisted Record Brief
- DD Form 214
- Psychological Evaluation Report
- two 3rd Party Statements
- Personal Health Information
- ASAP Certificate
- excerpts of their AMHRR
- Stressor Statement
- DoD Policy Guidance Memoranda published between 2014 and 2018

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. Multiple Department of Defense (DoD) Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to VA determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board) 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.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) effective 6 September 2011, set policies, standards, and procedures 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, and the general provisions governing the separation of Soldiers before expiration term of service 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) A 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) Paragraph 1-16 (Counseling and Rehabilitative Requirements) stated Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to Soldiers. It is essential that Soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. The rehabilitative transfer requirements in chapter 14 (Separation for Misconduct) may be waived by the separation authority in circumstances where common sense and sound judgment indicate that such transfer will serve no useful purpose or produce a quality Soldier.

(5) 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.

(6) 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.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c, misconduct (serious offense).

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 DoD Instructions 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 600-85 (Army Substance Abuse Program (ASAP)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. 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. Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement.

h. Manual for Courts-Martial, United States (2008 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 Article 112a (Wrongful Use, Possession of Controlled Substances).

8. SUMMARY OF FACT(S):

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

b. A review of the available evidence provides the applicant was found guilty by a Summary Court-Martial in violation of Article 112a, UCMJ, requested an unconditional waiver for an administrative separation board and was involuntarily discharged from the U.S. Army. The DD Form 214, signed by the applicant, provides the applicant was discharged with a character of service of Under Other Than Honorable Conditions for misconduct (serious offense). They

completed 4 years, 1 month, and 4 days of net active service this period and did not complete their first full term of service of their 6-year, 21-week enlistment obligation.

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; to include abuse of illegal drugs; 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. The applicant's AMHRR does not reflect documentation of a diagnosis of PTSD, nor did the applicant provide evidence of such, during their military service. However, the applicant provided Personal Health Information, Problem List reflecting diagnosis of Adjustment Disorder with depressed mood dated 13 November 2012, Opioid Abuse dated 3 December 2010 and Suicidal Ideation; and a Psychological Evaluation Report dated 9 May 2024 reflecting a diagnosis of PTSD.

e. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

9. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE: In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

a. **The applicant submitted the following additional document(s):**

b. **The applicant presented the following additional contention(s):**

c. **Counsel / Witness(es) / Observer(s):**

10. 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: Adjustment Disorder with Depressed Mood, PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** Adjustment Disorder with Depressed Mood, combat trauma.

(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 trauma occurred prior to misconduct and nexus between trauma and substance use, the basis is 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:

c. Response to Contention(s):

(1) The applicant contends they made a mistake while on leave by using illegal substances after returning from their first deployment. Up until their misconduct they served the country honorably, earning the rank/grade of sergeant/E-5 in three and half years, deployed to Iraq in a combat area and lost a one close friend.

The Board considered this contention during proceedings, and determined an upgrade was warranted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense.

(2) The applicant contends by looking at their Enlisted Record Brief and their DD Form 214 they hope their achievements outweigh the childish mistake they made. 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 abuse offense.

(3) The applicant contends their military service was marked by numerous traumatic events that profoundly affected their mental health. Their discharge was a result of action influenced by severe, service connected PTSD, which was not adequately addressed during their service. In an attempt to cope with their overwhelming symptoms, they turned to alcohol and substance abuse. The applicant contends Multiple DoD Policy Guidance Memoranda published between 2014 and 2018 all emphasize the importance of considering the impact of mental health conditions on the behavioral leading to discharge. It is crucial to acknowledge that with proper mental health treatment and support, their actions would have been different. The applicant contends they have made significant efforts to seek treatment and improve their mental health since their discharge, further underscoring their commitment to recovery and honorable conduct.

The Board liberally considered this contention and determined that it was valid due to the applicant's Post Traumatic Stress Disorder outweighing the applicant's wrongful use and possession of illegal drugs offense. Therefore, a discharge upgrade is warranted.

(4) The applicant contends an upgrade to Honorable would not only rectify the injustice done but also provide them with the necessary benefits and support to continue their recovery. 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 abuse offense.

d. Based on a preponderance of evidence, the Board determined that the reason for the applicant's separation and the character of service the applicant received upon separation were inequitable. The Board determined that the applicant's Adjustment Disorder with Depressed Mood, and combat-related PTSD mitigated the applicant's wrongful use and possession of illegal drugs, basis of separation. The Board voted to change the characterization of service to Honorable and the reason for discharge to Misconduct (Minor Infractions) under the same reasons, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN. 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**AR20220005345****e. Rationale for Decision:**

(1) 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 wrongful use and possession of illegal drugs. Thus, the prior characterization is no longer appropriate.

(2) 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.

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

11. 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**

Authenticating Official:

7/22/2025

Legend:

AWOL – Absent Without Leave
AMHRR – Army Military Human
Resource Record
BCD – Bad Conduct Discharge
BH – Behavioral Health
CG – Company Grade Article 15
CID – Criminal Investigation
Division
ELS – Entry Level Status
FG – Field Grade Article 15

GD – General Discharge
HS – High School
HD – Honorable Discharge
IADT – Initial Active Duty Training
MP – Military Police
MST – Military Sexual Trauma
N/A – Not applicable
NCO – Noncommissioned Officer
NIF – Not in File
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
OBH (I) – Other Behavioral
Health (Issues)
OMPF – Official Military
Personnel File
PTSD – Post-Traumatic Stress
Disorder
RE – Re-entry
SCM – Summary Court Martial
SPCM – Special Court Martial

SPD – Separation Program
Designator
TBI – Traumatic Brain Injury
UNC – Uncharacterized
Discharge
UOTHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs