

1. Applicant's Name: [REDACTED]

a. **Application Date:** 16 February 2022

b. **Date Received:** 22 February 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 a narrative reason change.

b. **Applicant Contention(s)/Issue(s):** The applicant requests relief contending, in effect, a diagnosis of service-connected depression occurred prior to separation, followed by enrollment in the Army Substance Abuse Program. Social workers urged senior leadership to retain the applicant for continued treatment and to authorize a medical discharge rather than a general discharge. The company first sergeant rejected this recommendation and pursued immediate separation for drug abuse. A civilian advocate attempted to intervene but lacked authority to alter the outcome, instead urging pursuit of treatment upon return home to prevent deterioration of the condition. A supporting letter for the disability claim provides explicit documentation of the circumstances and experiences to date.

c. **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. 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, and the reentry code to RE-3. 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 July 2014

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 27 May 2014

(2) **Basis for Separation:** The applicant was informed of the following reasons: On 1 April 2014, the applicant tested positive for oxymorphone and THC. On 29 April 2013, the applicant admitted to possessing K 2 and drug paraphernalia in the barracks room.

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

(4) **Legal Consultation Date:** 10 June 2014

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

(6) Separation Decision Date / Characterization: 19 June 2014 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. Date / Period of Enlistment Under Review:** 29 August 2011 / 3 years, 16 weeks
- b. Age at Enlistment / Education / GT Score:** 20 / High School Graduate / 113
- c. Highest Grade Achieved / MOS / Total Service:** E-3 / 11B1O, Infantryman / 2 years, 10 months, 4 days
- d. Prior Service / Characterizations:** None
- e. Overseas Service / Combat Service:** Djibouti (28 June 2013 – 1 December 2013)
- f. Awards and Decorations:** NDSM, GWOTSM, ASR, OSR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) Military Police Report, 29 April 2013, reflects the applicant's wrongful possession of drug paraphernalia (on post).

(2) Memorandum for Record, 1 November 2013, Investigating Officer's Finding and Recommendations for the Commander's Inquiry on Allegations of K2 use in HHC, 1-63 Armor Battalion. All three Soldiers, SPC T, SPC M and SPC O, denied the use of K2 with the applicant. The company did not conduct a urinalysis to confirm or deny the suspicion of K2 use. There is no evidence to indicate these Soldiers violated the UCMJ. SSG E., did not have legal authority to investigate this matter as SSG E., was never appointed as an Investigating Officer. SPC M. and SPC T., admitted K2 use to SSG E., under duress and no record of the confessions exist except word of mouth. Their admission of K2 use is inadmissible due to these circumstances. The applicant's admission shows at least one Soldier used it and knew how to get it.

(3) Electronic Copy of Specimen Custody Document – Drug Testing, 16 April 2014, indicates the applicant tested positive for Oxymorphone 128, THC 2201 (marijuana) during a Probable Cause (PO) urinalysis testing conducted on 1 April 2014.

(4) FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 9 May 2014, indicates the applicant was found to have wrongfully used oxymorphone between 30 March and 1 April 2014. Wrongfully used marijuana on or about 31 March 2014. The imposed punishment included a reduction to E-1, forfeiture of \$765 pay per month for two months, along with 45 days of extra duty and restriction.

(5) Two Developmental Counseling Forms document instances of the applicant wrongfully used a controlled substance and paraphernalia.

- 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:

(a) Report of Mental Status Evaluation (MSE), 10 April 2014, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions. The evaluation included a diagnosis of depression NOS.

(b) Department of Veterans Affairs letter; 2 February 2022, reflect a combined service-connected evaluation of 70 percent.

(2) AMHRR Listed: MSE as described in previous paragraph 4j(1).

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty; Department of Veterans Affairs letter; self-authored letter; two letters of support; medical records.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has found employment and sought help for mental health from the VA.

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 waivable. Eligibility: Ineligible unless a waiver is granted.

- 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.

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 3-7a 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.

(b) 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.

(c) Paragraph 3-9 states a separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status.

(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 14-3, 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.

(b) 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 available evidence reflects the applicant was notified of the intent to discharge them from the U.S. Army because on 1 April 2014, the applicant tested positive for oxymorphone and THC. On 29 April 2013, the applicant admitted to possessing K 2 and drug paraphernalia in the barracks room.

c. The applicant contends the Army should change the narrative reason for the discharge. Under Chapter 14, paragraph 14-12c (2), of AR 635-200, the Army separated the applicant with an "general (under honorable conditions)" discharge. Army Regulations designate "Misconduct (Drug or Alcohol Abuse)," as the narrative reason for discharge under this provision and assign the separation code "JKK." Army Regulation 635-8 (Separation Processing and Documents) governs how officials prepare the DD Form 214. This regulation mandates that block 28 must list the narrative reason for separation, and block 26 must show the corresponding separation code, both as specified in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation prohibits any deviation and does not allow officials to enter any other reason.

d. The applicant contends being diagnosed with depression and the discharge should have been based on medical reasons. The applicant provided a Department of Veterans Affairs letter; 2 February 2022, reflecting a combined service-connected evaluation of 70 percent. A Report of Mental Status Evaluation (MSE), 10 April 2014, reflecting the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions. The evaluation included a diagnosis of depression NOS. Also, two third party letters reflecting a diagnosis of Major Depressive Disorder, Generalized Anxiety Disorder, Panic Disorder and Post-traumatic stress disorder. The AMHRR includes a MSE as previously described. The separation authority considered the mental status evaluation.

e. The applicant contends obtaining employment and seeking help from the VA for mental health. The Army Discharge Review Board has the authority to consider post-service factors when reviewing discharge recharacterization requests. However, no law or regulation permits upgrading an unfavorable discharge solely due to time passed or good conduct in civilian life.

The Board evaluates each case individually to determine whether post-service achievements indicate previous in-service misconduct was an anomaly rather than a reflection of the applicant's overall character.

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: Depressive Disorder, Major Depressive Disorder (MDD), Anxiety Disorder, Unspecified Psychoactive Substance Abuse, Cannabis Abuse.

(2) Did the condition exist or experience occur during military service? **Yes.** Depressive Disorder, Major Depressive Disorder (MDD), Anxiety Disorder, Unspecified Psychoactive Substance Abuse, and Cannabis Abuse.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was not diagnosed until after the misconduct and it is unclear that any symptoms existing prior to the misconduct rose to a psychiatric level fueling the misconduct. Accordingly, while they are service connected, it is for a condition that developed after the misconduct rather than driving it.

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends being diagnosed with depression and the discharge should have been based on medical reasons. The Board considered this contention and found no service-connected behavior health diagnosis that would mitigate or outweigh the applicant's drug use.

(2) The applicant contends obtaining employment and seeking help from the VA for mental health. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance. The Board does not grant relief to gain employment or enhance employment opportunities.

d. The Board determined: The medical advisor determined there was no medical mitigation considering the misconduct occurred prior to any behavior health issues that might mitigate the misconduct. At the time of separation, the applicant's symptoms worsened, and they were diagnosed with Depressive Disorder, Major Depressive Disorder and Anxiety Disorder, but again, this is after the misconduct. There was a self-assertion in the file related to hazing which the applicant considered traumatic. In the Board deliberations, using liberal considerations, it was determined the discharge for a one-time use was inequitable given the applicant's length, quality and combat service thus voting 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 length, quality and combat service outweighed the applicant's misconduct of one-time use of illegal drugs. 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.

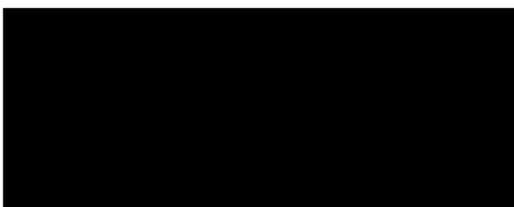
(4) The RE code will change to Re3.

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: RE-3**
- e. Change Authority to: No Change**

Authenticating Official:

1/29/2026



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