

1. Applicant's Name: [REDACTED]

a. Application Date: 19 April 2022

b. Date Received: 19 April 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.

b. Applicant Contention(s)/Issue(s): The applicant respectfully requests relief, asserting that at the time of the misconduct the applicant was very young and lacked the maturity to fully appreciate the extraordinary opportunity of serving with the 101st Airborne Division. The applicant explains not being ready for Afghanistan, the applicant fell in with the wrong crowd, lost focus, and made poor decisions that did not reflect their true character or commitment to service. The applicant states since separation, they have completely turned their life around, and has worked hard to become a responsible, productive member of society. The applicant believes their honorable service including a combat deployment outweighs the mistakes that led to their discharge. The applicant acknowledges not being mentally prepared at the time but expresses deep remorse and a strong desire to make amends. If given the opportunity, the applicant would choose to serve again and uphold the standards expected of a Soldier.

c. Board Type and Decision: In a records review conducted on 11 March 2026, and by a 2-1 vote, the Board determined that the characterization of service was too harsh based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge, and post service accomplishments 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. 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: 13 December 2011

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 24 October 2011

(2) Basis for Separation: The applicant was informed of the following reasons: On 23 June 2011, the applicant tested positive for THC. In accordance with AR 600-85, paragraph 1-7, the separation process must be initiated.

(3) Recommended Characterization: General, Under Honorable Conditions

(4) Legal Consultation Date: 27 October 2011

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 18 November 2011 / General, Under Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment / Reenlistment Under Review: 1 July 2008 / 5 years /

b. Age at Enlistment / Education / GT Score: 18 years / High School Graduate / 106

c. Highest Grade Achieved / MOS / Total Service: E-4 / 94F1O, Computer /Detection Systems Repairer / 3 years, 5 months, 13 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None / SWA / Afghanistan (7 May 2010 – 7 May 2011)

f. Awards and Decorations: ACM-CS, AAM, NDSM, GWOTSM, ASR, OSR, NATO Medal, CAB, AAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Seventeen Developmental Counseling Forms, issued between May 2009 and September 2011, for various misconduct to include failure to repair, (twice), guidance and open communications, performance (multiple), deployment to a combat zone, for being disrespectful toward a noncommissioned officer, illegal drug abuse, and for insubordinate conduct.

(2) Company grade nonjudicial punishment (NJP), 5 October 2011, for wrongful use of marijuana on or about 23 May 2011. The punishment consisted of reduction to private/E-1, a forfeiture of \$733 pay for 2 months, and 45 days of extra duty and restriction.

(3) Field grade NJP, 17 November 2011, for wrongful possession or consumption of "DOVE," a synthetic substance used for the purpose of inducing excitement, intoxication, or stupefaction. The punishment consisted of reduction to private/E-1, and a forfeiture of \$724 pay for 2 months.

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: Report of Mental Status Evaluation, 11 August 2011, provides the applicant was seen for a command directed mental health consultation based on a pending Army Regulation 635-200, chapter 14-12c, for illegal substance use. The applicant was cleared for administrative separation under this provision of the regulation.

5. APPLICANT-PROVIDED EVIDENCE: Application

6. POST SERVICE ACCOMPLISHMENTS: The applicant states since separation, they have completely turned their life around, and has worked hard to become a responsible, productive member of society.

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) 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.

(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 14-2c, 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.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, 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 AMHRR contains various evidence to substantiate the applicant was discharged due to drug abuse to include a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), 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.

c. The applicant contends youth and immaturity affected the applicant's behavior at the time of discharge. The AMHRR shows the applicant met entrance qualification standards to include age.

d. The applicant also contends good service, including a combat tour in Afghanistan should be taken into consideration. The Board considered the applicant's service accomplishments and the quality of service according to the Department of Defense Instruction 1332.28.

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 are void. However, the applicant asserts not being mentally ready for deployment leading to symptoms and poor choices which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant asserts not being mentally ready for deployment leading to symptoms and poor choices.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board applied liberal consideration and opined that while the applicant's statement is acknowledged, there are no known diagnoses for applicant thus no mitigation can be applied.

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

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant respectfully requests relief, asserting that at the time of the misconduct the applicant was very young and lacked the maturity to fully appreciate the extraordinary opportunity of serving with the 101st Airborne Division. The applicant explains not being ready for Afghanistan, the applicant fell in with the wrong crowd, lost focus, and made poor decisions that did not reflect their true character or commitment to service. The Board considered this contention and determined that the applicant's youth and immaturity did not outweigh the seriousness of the applicant's Drug abuse. There is insufficient evidence to indicate the applicant was any less mature than other Soldiers of the same age who successfully completed military service.

(2) The applicant states since separation, they have completely turned their life around, and has worked hard to become a responsible, productive member of society. The applicant believes their honorable service including a combat deployment outweighs the mistakes that led to their discharge. The applicant acknowledges not being mentally prepared at the time but expresses deep remorse and a strong desire to make amends. The Board considered this contention valid during deliberations and due to the applicant's length, quality and combat service, voted to grant relief.

d. The Board determined there was no medical mitigation for the use of THC; however, due to the applicant's post service accomplishments, length (3y, 5m) and quality, to include combat, of service the current discharge was too harsh and inequitable. The dissenting member voted against the upgrade based on the numerous (double digit) counseling statements in the file and multiple uses of THC, only stopping to allow for detox to hide from leadership.

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

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reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

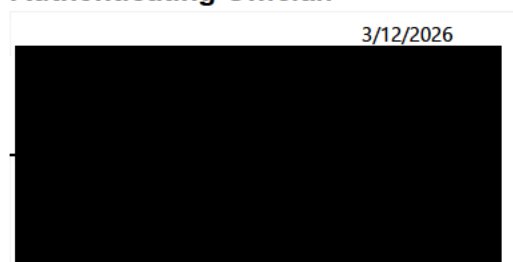
(2) The Board voted to change the applicant's characterization of service to Honorable because the applicant's post service accomplishments, length (3y, 5m) and quality, to include combat, of service outweighed the applicant's misconduct of marijuana abuse. Thus, the prior characterization is no longer appropriate.

(3) The Board voted not to change the applicant's reason for discharge or accompanying SPD code 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:**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