

1. Applicant's Name: [REDACTED]**a. Application Date:** 7 February 2022**b. Date Received:** 9 February 2022**c. Counsel:** None**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 General (Under Honorable Conditions). The applicant requests an upgrade to honorable.

(2) The applicant seeks relief contending they are requesting a change in their character of service so they can enlist into the Army Reserve, finish their career that they started and create a better future for their family. They would like to clear their name and prove that the mistake they made as a young man was just that, a mistake. They admitted to abusing a synthetic drug called K2 and they received an Article 15. They completed their punishment and then they were offered to change their Military Occupational Specialty (MOS) to infantry or be discharged from the Army; however, this offer was called off and they were informed that they would be discharged. They had always had a clean record and was never in any legal troubles, this was their only incident.

(3) Since they have been discharged from the Army they have had successful employment opportunities. They want to emphasize the choice they made when they were age 20 to smoke K2 was a decision they have regretted for a very long time. They have learned to accept their short coming and it helped them to achieve many things afterward. Their military career was cut short because they told their first sergeant that they tried K2 one time.

b. Board Type and Decision: In a records review conducted on 21 November 2025, and by a 3-0 vote. The Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable. The Board voted to change the applicant's reason for discharge or accompanying SPD code to JKN. The RE code will change to RE-3. Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names available upon request.

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 16 February 2011**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 18 January 2011

(2) **Basis for Separation:** The applicant was informed of the following reason: on or about 6 November 2010, violated a general regulation by wrongfully smoking spice.

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

(4) Legal Consultation Date: 21 January 2011

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 29 January 2011, General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Reenlistment: 10 March 2009 / 6 years

b. Age at Reenlistment / Education / GT Score: 19 / HS Graduate / 104

c. Highest Grade Achieved / MOS / Total Service: E-3 / 31B1O, Military Police / 1 year, 11 months, 7 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (25 October 2009 – 26 January 2010)

f. Awards and Decorations: NDSM, GWTSM, ICM-CS, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)) dated 24 November 2010, reflects the applicant received nonjudicial punishment, in that they, did at or near Fort Hood, TX, on or about 6 November 2010, violated a lawful general regulation by wrongfully smoking spice, in violation of Article 92, UCMJ. The applicant's punishment consisted of a reduction in rank/grade from private first class/E-3 to private/E-1, forfeiture of \$723.00 pay for two months and extra duty and restriction for 45 days. The applicant elected not to appeal.

(2) A memorandum, Headquarters and Headquarters Company, 1st Brigade Special Troops Battalion, 1st Brigade Combat Team, 1st Cavalry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 18 January 2011, reflects the applicant received notification of the initiation of separation action against them from their company commander for Commission of a Serious Offense. The reason for the proposed separation action is, on or about 6 November 2010, violated a general regulation by wrongfully smoking spice. The company commander recommended the applicant's service be characterized as General (Under Honorable Conditions). On the same date the applicant acknowledged receipt of their notification of separation and of the rights available to them.

(3) On 21 January 2011, the applicant completed their Election of Rights acknowledging they have been advised by their consulting counsel of the basis for the contemplated action to separate them for Commission of a Serious Offense and its effects; of the rights available to them, and of the effect of any action by them in waiving their rights. They elected not to submit statements in their own behalf. They understood they may expect to encounter substantial

prejudice in civilian life if a General (Under Honorable Conditions) discharge is issued to them. They understand that if they are subject to the issuance of a discharge Under Other Than Honorable Conditions, they may be ineligible for many or all benefits as a veteran under both Federal and State laws. They waived counsel of their own free will and furthermore no one has coerced them in making this decision.

(4) A memorandum, Headquarters and Headquarters Company, 1st Brigade Special Troops Battalion, 1st Brigade Combat Team, 1st Cavalry Division, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, undated, reflects the applicant's company commander recommended the applicant be separated from the Army prior to the expiration of their current term of service. The company commander does not consider it feasible or appropriate to accomplish other disposition as the applicant has demonstrated by their actions and conduct that they will not become a quality Soldier desired by the U.S. Army.

(5) A memorandum, Headquarters, 1st Brigade Special Troops Battalion, 1st Brigade Combat Team, 1st Cavalry Division, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, undated, reflects the applicant's battalion commander recommended the applicant be separated from the Army prior to the expiration of their current term of service and their service be characterized as General (Under Honorable Conditions).

(6) A memorandum, Headquarters, 1st Brigade Combat Team, 1st Cavalry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, undated, reflects the separation authority carefully consideration the applicant's separation packet and recommendations of the chain of command that the applicant be considered for separation from the U.S. Army prior to the expiration of their current term of service. They ordered the applicant be discharged from the Army and furnished a General (Under Honorable Conditions) Discharge Certificate.

(7) The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects they were discharged on 16 February 2011, with 1 year, 11 months, and 7 days of net active service this period. The DD Form 214 show in –

- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 26 (Separation Code) – JKK
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – Misconduct (Drug Abuse)

i. **Lost Time / Mode of Return:** NA

j. **Behavioral Health Condition(s):** None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- two Certificates of Training
- Alcohol and Drug Abuse Preventions Training Certificate
- excerpt of Separation Packet
- civilian Certificates of Completions and awards
- Congressional Letter
- four 3rd Party Character Statements

6. POST SERVICE ACCOMPLISHMENTS: Civilian training certificates and achievement awards.

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. 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; Title 10, U.S. Code, Section 1553; and Department of Defense (DoD) Directive 1332.41 and DoD Instruction 1332.28.

f. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) effective 17 December 2009, 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) An 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) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. Paragraph 14-12c(2) (Abuse of Illegal Drugs is Serious Misconduct), stated, however; 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. 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.

(5) 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. 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

g. 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, paragraph 12c(2), misconduct (drug abuse).

h. 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.

i. 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.

j. 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 92 (Failure to obey order, regulation).

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 reflects as the applicant received nonjudicial punishment under the provisions of Article 15, UCMJ for testing positive for violating a lawful general regulation by wrongfully smoking spice and was involuntarily discharged from the U.S. Army. Their DD Form 214 provides they were discharged with a character of service of General (Under Honorable Conditions) for misconduct (drug abuse). They completed 1 year, 11 months, and 7 days of net active service and did not complete their first full term of service of their 6-year 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. 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. 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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no 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? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

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

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

c. Response to Contention(s):

(1) The applicant contends they are requesting a change in their character of service so they can enlist into the Army Reserve, finish their career that they started and create a better future for their family. They would like to clear their name and prove that the mistake they made as a young man was just that, a mistake. The Board voted to grant relief in the form of an upgrade of the applicant's characterization of service to Honorable. Also, the Board voted to change the applicant's reason for discharge or accompanying SPD code to JKN.

(2) The applicant contends they had always had a clean record and was never in any legal troubles, this was their only incident. The applicant contends since they have been discharged from the Army they have had successful employment opportunities. The applicant contends they want to emphasize the choice they made when they were age 20 to smoke K2 was a decision they have regretted for a very long time. The applicant contends they have learned to accept their short coming and it helped them to achieve many things afterward. Their military career was cut short because they told their first sergeant that they tried K2 one time. The Board considered this contention, taking into account the seriousness of the misconduct, including the conscious and deliberate decisions the applicant made regarding the wrongful use of drugs. While youthful indiscretion does not excuse the misconduct, the Board ultimately voted to grant relief by upgrading the characterization of service to Honorable.

d. The Board determined the discharge is inequitable based on the applicant's quality of service. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable.

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 grant relief in the form of an upgrade of the applicant's characterization of service to Honorable. The Board voted to change the applicant's reason for discharge or accompanying SPD code to JKN.

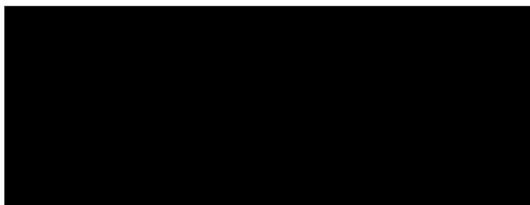
(3) The RE code will change to RE-3.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD code to: JKN
- d. Change RE Code to: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

12/1/2025



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