

1. Applicant's Name: [REDACTED]**a. Application Date:** 4 May 2022**b. Date Received:** 11 May 2022**c. Counsel:****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 requests relief contending, in effect, the Veterans Administration (VA) determined the applicant to be 100% disabled, and an upgrade would provide access to educational benefits.

c. Board Type and Decision: In a records review conducted on 23 February 2026, and by a 3-0 vote, the Board determined the discharge is inequitable based on the applicant's Chronic Adjustment Disorder mitigated the applicant's marijuana use. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Drug Abuse) / AR 635-200, Paragraph 14-12c (2) / JKK / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 3 April 2020

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 23 January 2020

(2) Basis for Separation: The applicant was informed of the following reasons: between on or about 4 December 2017 and on or about 4 January 2018, the applicant wrongfully used marijuana and between on or about 4 December 2018 and on or about 4 January 2019 the applicant wrongfully used marijuana.

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

(4) Legal Consultation Date: 24 January 2020

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 19 March 2020 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. Date / Period of Enlistment/Reenlistment Under Review:** 14 February 2017 / 3 years, 20 weeks
- b. Age at Enlistment / Education / GT Score:** 23 / HS Graduate / 92
- c. Highest Grade Achieved / MOS / Total Service:** E-2 / 13J1O, Fire Control Specialist / 3 years, 1 month, 20 days
- d. Prior Service / Characterizations:** None
- e. Overseas Service / Combat Service:** None
- f. Awards and Decorations:** NDSM, GWOTSM, ASR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) Enlisted Record Brief (ERB), 6 April 2020, reflects the applicant was flagged for Drug Abuse (UA), effective 30 January 2018, and was ineligible for reenlistment due to Adverse Action (9B). The Assignment Eligibility Availability code reflects the applicant was temporarily ineligible for reassignments due to medical, convalescence, confinement due to trial by court-martial, enrollment in Track III ASAP, or local bar to reenlistment.

(2) Field Grade Article 15 dated 13 February 2018, for between on or about 4 December 2017 and 4 January 2018, wrongfully used marijuana. The imposed punishment was 45 days of extra duty and 45 days (suspended).

(3) Field Grade Article 15 dated 22 August 2019, for between on or about 4 December 2018 and 4 January 2019, wrongfully used marijuana. The imposed punishments was reduction to E-1, forfeiture of \$633 pay per month for two months (suspended), and 45 days of extra duty and restriction.

(4) IDES NARSUM dated 3 September 2019, indicated the applicant's right knee pain condition had exhausted conservative and surgical care and will continue to require significant profile restrictions beyond 12 months. The applicant is beyond one year of being diagnosed with right knee hypertrophic synovium and it appears to not meet AR 40-501, Chapter 3-35b (1).

(5) DA Form 3947 (Medical Evaluation Board Proceedings) dated 4 September 2019, the applicant received one unfitting diagnoses: Right knee hypertrophic synovium (s/p synovectomy) is disqualifying per AR 40-501, Chapter 3-35b (1). The applicant was referred to Physical Evaluation Board and requested an Independent Medical Assessment.

(6) DD Form 2807-1 (Report of Medical History) dated 17 July 2019, the examining medical physician noted in the comments section: item 12 meniscus tear right knee, arthroscopy and synovectomy, continues to have significant pain, irregular gait and decreased. Knee health pending IDES review for consideration for MEB, all other items acknowledged and "noted".

(7) DD Form 2808 (Report of Medical Examination) dated 17 July 2019; the examining medical physician noted in the comments section: the applicant was qualified for service; no

new issues that would require further specialist examination. The applicant was cleared for medical separation pending results of the IDES review the applicant had been referred for consideration for MEB.

(8) Headquarters U.S. Garrison, Fort Sill, OK, Orders Number 085-1306 dated 25 March 2020, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 3 April 2020 from the Regular Army.

(9) The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) indicates the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-12c (2), with a narrative reason of Misconduct (Drug Abuse). The DD Form 214 was authenticated with the applicant's electronic signature.

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 provided:** Report of Mental Status Evaluation (MSE) dated 24 July 2019, indicates the applicant was cleared for any administrative actions the command deemed appropriate. The applicant demonstrated the ability to understand and participate in administrative proceedings and appreciated the difference between right and wrong. The applicant was in the MEB process for a non-BH condition. Because the MEB process, the SM is not currently cleared for final administrative action at this time, but the administrative action can proceed IA WAR 635-200, Paragraph 1-33. Per ALARACT 159/2012, final disposition through the Disability Evaluation System (DES) takes precedence over administrative separation processing, and ultimately, the General Court-Martial Convening Authority (GCMCA) must direct whether to proceed with the DES process or administrative separation. SM is not cleared for final administrative action at this time, but the administrative action can proceed IA WAR 635-200, Paragraph 1-33.

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293 (Application for the Review Discharge)

6. **POST SERVICE ACCOMPLISHMENTS:** None submitted in support of the application.

7. **STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval

Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

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

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

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

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

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

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

f. Army Regulation 601-210, Regular Army, and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

- RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

- RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

- RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

g. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

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

(b) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(c) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(2) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

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

(b) Paragraph 14-3 prescribes a discharge under other than honorable conditions are normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(c) Paragraph 14-12c (2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under paragraph 14-12a or 14-12b as appropriate.

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

8. SUMMARY OF FACT(S): Standard of Review. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

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

b. The applicant acknowledged notification of administrative separation with a general (under honorable conditions) discharge recommendation on 23 January 2020 and consulted legal counsel on 24 January 2020. The separation authority reviewed the separation action and all supporting documents pertaining to the applicant and approved the applicant's administrative separation and characterized the applicant's service as General (Under Honorable Conditions).

c. The applicant contends an upgrade would provide access to educational benefits through the GI Bill. Eligibility for veterans' benefits, including Post-9/11 or Montgomery GI Bill educational assistance, does not fall under the purview of the Army Discharge Review Board. The applicant should contact a local Department of Veterans Affairs office for further assistance.

d. The applicant contends the VA determined the applicant to be 100% disabled service connection for medical conditions sustained during active duty. However, the applicant provided no supporting evidence beyond their statement. Available medical records in the AMHRR contain no indication of a disabling medical or mental condition at the time of discharge, warranting separation processing through medical channels.

e. The applicant contends an upgraded discharge would grant access to veterans' benefits. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local Department of Veterans Affairs office for further assistance.

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/experiences: Chronic Adjustment Disorder (CAD-100%SC). [Note-Diagnosis of Adjustment DO with anxiety is subsumed under diagnosis of CAD. Diagnosis of ADHD with TBI residuals is considered pre-existing condition and does not fall under purview of liberal consideration.]

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for CAD establishes nexus with active military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has a mitigating BH condition, Chronic Adjustment DO (CAD). As there is an association between CAD and self-medication with illegal drugs, there is a nexus between diagnosis of CAD and two incidents of wrongful use of marijuana.

(4) Does the condition or experience outweigh the discharge? **Yes.** The Board concurred with the opinion of the Board's Medical Advisor, a voting member. As a result, the ADRB applied liberal consideration and found that the applicant's CAD outweighed the marijuana use for the aforementioned reason(s).

b. Prior Decisions Cited: N/A

c. Response to Contentions:

(1) Contention 1: VA determined the applicant to be 100% disabled service connection for medical conditions sustained during active duty. The Board considered this contention and determined that relief was warranted due to the applicant's CAD mitigating the applicant's marijuana use.

(2) Contention 2: an upgrade would provide access to educational benefits through the GI Bill and other veterans' benefits. 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 CAD mitigating the applicant's marijuana use.

d. The Board determined the discharge is inequitable based on the applicant's Chronic Adjustment Disorder mitigated the applicant's marijuana use.

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 MDD mitigated the applicant's marijuana use. 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 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:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** Misconduct (Minor Infractions)/JKN
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** AR 635-200, paragraph 14-12a

Authenticating Official:

3/10/2026

