

1. Applicant's Name: [REDACTED]**a. Application Date:** 22 December 2021**b. Date Received:** 12 May 2022**c. Counsel:** [REDACTED]**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 change to separation program designator (SPD) code.

b. Applicant Contention(s)/Issue(s): The applicant requests relief contending, in effect, The Department of Veterans Administration (VA) granted 50 percent service connection for post-traumatic stress disorder (PTSD) sustained during active duty and based on current DoD guidance in the Hagel and Kurta Memorandums. The general (under honorable conditions) discharge and SPD code granted was inequitable because events leading to discharge was medical reasons. The applicant states the nonjudicial punishment imposed and discharge proceedings amounted to double punishment and was arbitrary and capricious.

Board Type and Decision: In a records review conducted on 04 March 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, the circumstances surrounding the discharge (PTSD diagnoses), and post-service accomplishments. 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. The Board determined the reentry code is proper and equitable and voted not to change it. 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-4 / General (Under Honorable Conditions)

b. Date of Discharge: 24 October 2008

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 4 September 2008

(2) Basis for Separation: The applicant was informed of the following reasons: the applicant tested positive for marijuana on 14 March 2008.

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

(4) Legal Consultation Date: the applicant consulted with legal counsel and submitted a rebuttal statement which was not found in the available service records.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 13 September 2008 / General
(Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment/Reenlistment Under Review: 29 June 2004 / 4 years, 16 weeks

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 101

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B1O, Infantryman / 4 years, 3 months, 26 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (11 November 2005 – 24 November 2006); Afghanistan (18 March 2008 – 13 September 2008)

f. Awards and Decorations: ARCOM, AAM, AGCM, NDSM, ACM, GWOTSM, ICM-CS, NCOPD, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Enlisted Record Brief (ERB) dated 31 August 2008, reflects the applicant was reduced from E-4 to E-3 effective 21 May 2008.

(2) Field Grade Article 15, for wrongful use of marijuana between on or about 13 February 2008 and on or about 14 March 2008; reduction to E-3, forfeiture of \$894.00 pay per month for two months and 45 days of extra duty.

(3) Memorandum, Subject: Suspension of Periodic Medical Examinations dated 3 October 2003, provides the authority for the Office of the Surgeon General to defer periodic medical examinations where conditions (such as contingency operations) preclude the accomplishment of the examinations.

(4) Headquarters, 101st Airborne Division (Air Assault) and Fort Campbell, Fort Campbell, KY, Orders Number 290-0601 dated 16 October 2008, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 24 October 2008 from the Regular Army.

(5) 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:

- 14 pages of medical documents (Initial PTSD Disability Benefits Questionnaire) submitted by the applicant to the VA to be used as an evaluation tool in processing the applicant Veterans Administration (VA) claim for PTSD with the exam date of 19 June 2019.
- VA Benefits record dated 25 June 2019, reflects the applicant was granted service connected PTSD at 50 percent effective 31 October 2018.
- Report of Mental Status Evaluation dated 3 September 2008, indicates the applicant was the applicant was mentally responsible for behavior and cleared for any administrative actions the command deemed appropriate. The applicant demonstrated the ability to understand and participate in administrative proceedings, appreciated the difference between right and wrong, and met medical retention requirements. There is no evidence of a psychiatric condition, which would prevent the applicant from participating in any legal or administrative actions.

(2) AMHRR provided: Report of Mental Status Evaluation dated 3 September 2008, indicates the applicant was the applicant was mentally responsible for behavior and cleared for any administrative actions the command deemed appropriate. The applicant demonstrated the ability to understand and participate in administrative proceedings, appreciated the difference between right and wrong, and met medical retention requirements. There is no evidence of a psychiatric condition, which would prevent the applicant from participating in any legal or administrative actions.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Application for the Review of Discharge); 20 pages of a brief from a Representative of Stinson LLC; Self-Authored Statement – 5 pages; DD Form 4 (Enlistment/Reenlistment Document); DD Form 214 for the period ending 24 October 2008; Field Grade Article 15 (UCMJ); Page 1 of DA Form 4856 (Developmental Counseling Form); the Notification of Administrative Separation memorandum; 14 pages Initial PTSD Benefits Questionnaire; Veterans Benefits Administration Rating Decision dated 25 June 2019; DA Form 3822-R (Report of Mental Status Evaluation) dated 3 September 2008.

6. POST SERVICE ACCOMPLISHMENTS: Employed for a landscaping company for seven years; currently a member of Carpenter’s Union and a journeyman foreman.

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 and change SPD Code. The applicant's Army Military Human Resource 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 4 September 2008 and after consulting legal counsel elected to submit rebuttal matters which is found in the applicant's service record. On 13 September 2008, 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 good service, including two combat tours. The board evaluated the applicant's service accomplishments and overall quality of service in accordance with DODI 1332.28.

d. The applicant contends the Army should change the SPD code. The SPD codes are three-character alphabetic combinations identifying reasons for and types of separation from active duty. The primary purpose of SPD codes is to provide a statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in collecting and analyzing separation data. The Office of the Secretary of Defense controls SPD codes and implements them in Army policy AR 635-5-1 to track types of separations. The SPD code specified by Army Regulations for a discharge under Chapter 14, paragraph 14-12c (2) is "JKK."

e. The applicant contends an upgrade and SPD code change should be granted due to the VA rating of 50 percent service connection for PTSD sustained during active duty and based on current DoD guidance in the Hagel and Kurta Memorandums. The applicant provided several medical documents indicating a diagnosis. The AMHRR shows the applicant underwent a mental status evaluation (MSE) / behavioral health evaluation (BHE) on 3 September 2008, which indicates the applicant was mentally responsible and recognized right from wrong. The MSE does not indicate any PTSD diagnosis.

f. The applicant contends the general (under honorable conditions) discharge and SPD code granted was inequitable because events leading to discharge was medical reasons. Army Regulation 635-200 establishes the separation policy to uphold readiness by enforcing standards of performance and conduct. Soldiers who fail to meet discipline and performance expectations or lack potential for continued military service face separation to maintain morale and operational effectiveness. Army Regulation 635-200 authorizes punitive discharges following court-martial sentencing. However, evidence in the AMHRR confirms the applicant's discharge was administrative under AR 635-200, Paragraph 14-12c.

g. The applicant contends the nonjudicial punishment imposed and discharge proceedings amounted to double punishment. However, Army Regulation 2 600-8-24, paragraph 4-4e, states punishment from a nonjudicial punishment by way of a Field Grade Article 15 under UCMJ, for misconduct does not constitute double jeopardy when later used to justify elimination.

h. The applicant contends an involuntary administrative separation, following the completion of nonjudicial punishment, amounted to double jeopardy and therefore was arbitrary and capricious. The AMHRR does not indicate or provide evidence of arbitrary or capricious actions by the command.

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: PTSD. Additionally, the applicant asserts deployment related trauma exposure and VA service connection for PTSD, 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 is SC by the VA for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board applied liberal consideration and opined that there is a mitigating BH condition. While the applicant did not report any mental health symptoms during their time in service, they did deploy to Iraq in 2005-06 (and again in 2008) and asserts having experience trauma prior to their one-time positive drug screen for marijuana. Additionally, they are service connected by the VA for PTSD. Substance abuse is a common self-medicating strategy for avoiding uncomfortable emotions and memories related to trauma exposure, and substance use can be a natural sequela to mental health conditions associated with exposure to traumatic and stressful events. Given the nexus between trauma exposure, avoidance of emotion, and substance use and in accordance with liberal consideration, the basis for separation is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that PTSD outweighed outweigh the applicants drug use.

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) Contention 1: good service, including two combat tours. The Board considered this contention during proceedings and acknowledges the applicants service and combat tours, an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense.

(2) Contention 2: the general (under honorable conditions) discharge and SPD code granted was inequitable because events leading to discharge was medical reasons and should be granted due to the VA rating of 50 percent service connection for PTSD sustained during active duty and based on current DoD guidance in the Hagel and Kurta Memorandums. The Board liberally considered this contention and determined that it was valid due to the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense. Therefore, a discharge upgrade is warranted.

(3) Contention 3: the nonjudicial punishment imposed and discharge proceedings amounted to double punishment. The Board considered this contention non-persuasive. The applicant's administrative separation does not constitute double jeopardy.

d. The Board determined the discharge is inequitable based on medical/BH mitigation for the Basis of Separation. The Board voted to upgrade due to this medical mitigation and the applicant's length, combat experience and quality of service. The Board determined no upgrade was warranted for the reentry code as it was proper and equitable.

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 Post Traumatic Stress Disorder outweighed the applicant's misconduct of drug abuse. 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.

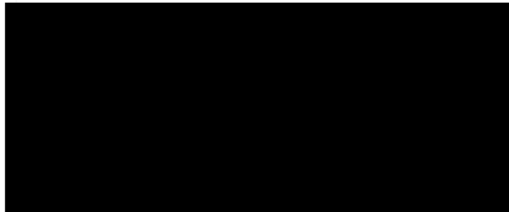
(4) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation and the applicant's medical records.

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: No Change
- e. Change Authority to: No Change

Authenticating Official:

3/5/2026



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