

1. Applicant's Name: [REDACTED]**a. Application Date:** 4 May 2022**b. Date Received:** 16 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 applicant contends the event leading to discharge from the Army was a one-time incident and, the applicant was dealing with mental issues (physical and military). An upgrade would assist with the applicant's goal of gaining employment as a police officer and one day rejoining the military.

c. Board Type and Decision: In a records review conducted on 11 March 2026, and by a 2-1 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (Persistent Depressive Disorder) 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, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 27 July 2021

c. Separation Facts: he applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file.

(1) Date of Notification of Intent to Separate: NIF

(2) Basis for Separation: The applicant was informed of the following reasons: NIF

(3) Recommended Characterization: NIF

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: NIF

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment/Reenlistment Under Review:** 29 October 2019 / 5 years
- b. **Age at Enlistment / Education / GT Score:** 20 / HS Graduate / 105
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / None / 1 year, 8 months, 29 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None / None
- f. **Awards and Decorations:** NDSM
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) Enlisted Record Brief (ERB) dated 28 July 2021, reflects the applicant was flagged for Involuntary Separation or Discharge (BA) effective 10 June 2021 and for Noncompliance with the Army Body Composition Program (KA) effective 17 February 2021 and was ineligible for reenlistment due to pending separation (9V). The applicant was reduced from E-2 to E-1 effective 13 January 2021.

(2) DD Form 2807-1 (Report of Medical History) dated 14 December 2020, the examining medical physician noted in the comments section: restated the medical issues annotated by the applicant and noted no additional medical issues during examination.

(3) DD Form 2808 (Report of Medical Examination) dated 14 December 2020, the examining medical physician noted in the comments section: the applicant is medically qualified for ETS/chapter/separation and recommended the applicant follow-up with primary care manager for behavioral health concerns.

(4) Headquarters, U.S. Army Garrison, Presidio of Monterey, CA, Orders Number 168-0003 dated 17 June 2021, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 27 July 2021 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:** Two third-party statements provided with the application reflects the applicant was dealing with a lot mentally during the applicant's time in the service.

(2) **AMHRR provided:** None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Application for the Review of Discharge); Three Letters of Support.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is currently enrolled in college.

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 waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

- RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.
- RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.
- RE-4 Applies to: Person separated from last period of service with a nonwaivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

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

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

(a) Paragraph 3-5c, 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) 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) 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 AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR is void of the specific facts and circumstances concerning the events leading to the discharge from the Army. The applicant's AMHRR includes a properly constituted DD Form 214 for the period ending 27 July 2021, 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 the event leading to discharge from the Army was a one-time incident and, and one day rejoining the military. Army Regulation 635-200, paragraph 3-5 and Army Regulation 600-8-24, paragraph 1-23, state certain circumstances allow a single act of conduct or duty performance to serve as the basis for service characterization.

d. The applicant contends the applicant was dealing with mental and physical issues at that time. Army Regulation 635-200, Paragraph 14-2c, prescribes Commanders will not take action specified in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties imposed under the UCMJ.

e. The applicant contends an upgrade would assist with the applicant's goal of gaining employment as a police officer. The Board does not grant relief to secure or enhance job opportunities.

f. The applicant contends a change of the characterization of service would permit the ability to one day maybe to rejoin the Army. At the time of discharge, the applicant received a characterization of service of under other than honorable conditions. Army Regulation 601-210, Chapter 4, establishes an under other than honorable conditions discharge as a non-waivable disqualification, making the applicant ineligible for reenlistment.

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: Persistent Depressive Disorder (Dysthymia)

(2) Did the condition exist, or experience occur during military service? **Yes.** Depressive symptoms existed in 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 given the service-connected symptoms originated prior to the substance use and nexus between depression and self-medication, the basis 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 Persistent Depressive Disorder outweighed the basis of separation (one time use of THC).

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends the event leading to discharge from the Army was a one-time incident and, and they would like to one day rejoin the military. 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 Persistent Depressive Disorder outweighing the applicant's one-time illegal substance abuse offense.

(2) The applicant contends that they were dealing with mental and physical issues at that time. The Board liberally considered this contention and determined that it was valid due to the applicant's Persistent Depressive Disorder outweighing the applicant's one-time illegal substance abuse offense. Therefore, a discharge upgrade is warranted.

(3) The applicant contends an upgrade would assist with the applicant's goal of gaining employment as a police officer. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

d. The Board determined: Per the medical advisor, based on available documentation, the applicant was discharged after a positive UA for marijuana. The applicant attended SUDCC appointments until separation. Post-service, they are service connected for Persistent Depressive Disorder/Dysthymia with symptoms originating in BCT. Based on liberal consideration, service-connected symptoms originating prior to the substance use, and nexus between depression and self-medication, the basis is mitigated. The Board determined the separation packet is not in the file; however, it was agreed that based on available information the discharge was for one time use of THC. The applicant did not have length, quality or combat, but did have post-service accomplishments. Combined with the medical mitigation, during deliberations, the Board voted to approve an upgrade. It was determined the RE code should remain the same considering the VA disability rating. The dissenting member determined the discharge was proper and equitable due to the lack of length, quality, or combat.

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 Persistent Depressive Disorder (Dysthymia) outweighed the applicant's misconduct of marijuana abuse. Thus, the prior characterization is no longer appropriate.

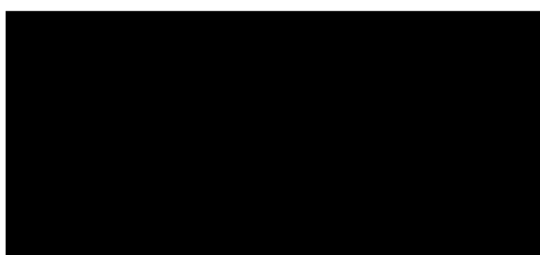
(3) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

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

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:



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