

1. Applicant's Name: [REDACTED]

a. **Application Date:** 14 June 2022

b. **Date Received:** 25 July 2022

c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant Requests:** The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

b. **Applicant Contention(s)/Issue(s):** The applicant requests relief, contending their military record was otherwise impeccable and they were a specialist promotable preparing for advancement to noncommissioned officer (NCO) at the time of separation. The applicant asserts their substance use was directly related to undiagnosed Post-Traumatic Stress Disorder (PTSD) and represents the sole instance of misconduct during their military career. They contend, due to the Army's zero-tolerance policy, they were not afforded alternative rehabilitative measures or a comprehensive behavioral health evaluation to address potential PTSD. The applicant further argues disciplinary outcomes in comparable cases appeared inconsistent and arbitrary. As a result of their characterization of service, the applicant is ineligible for Post-9/11 GI Bill benefits, which would otherwise provide more than three years of educational assistance toward a bachelor's degree. The applicant states as a homeless veteran and parent, restoration of benefits would significantly improve their employment prospects and ability to provide stability for their child.

c. **Board Type and Decision:** In a records review conducted on 19 March 2026, and by a 3-0 vote, the Board voted to upgrade the discharge to Honorable to SPD Code to JKN and no change to the RE code. 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:** 18 April 2012

c. **Separation Facts:** The Army Military Human Resource Record provided the following details:

(1) **Date of Notification of Intent to Separate:** 28 March 2012

(2) **Basis for Separation:** On or between 20 October and 20 November 2011, the applicant wrongfully used Spice.

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

(4) **Legal Consultation Date:** 28 March 2012 / The applicant elected counsel and declined to provide a personal statement.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 29 March 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment Under Review: 26 July 2008 / 6 years, 16 weeks

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

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B10 Infantryman / 3 years, 9 months, 23 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (13 September 2009 – 10 September 2010)

f. Awards and Decorations: ICM-CS-2, ARCOM, AGCM, NDSM, GWOTSM, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The Enlisted Record Brief provides the applicant was flagged (Suspend Favorable Personnel Actions (FLAG)) on 18 and 28 February 2012, for adverse action (AA) and field-initiated involuntary separation (BA).

(1) On 15 February 2012, the Army Substance Abuse Program (ASAP) Coordinator, informed the command of the applicant's positive urinalysis for wrongful use of Spice and provided the required actions such as to refer them to ASAP for an evaluation/assessment within five duty days, initiating a FLAG, such as notifying local CID, and to comply with administrative guidance under AR 635-200.

(2) Between 1 and 7 March 2012, the applicant completed separation examinations and was psychiatrically cleared and medically qualified for separation, with no diagnosis or recommendations identified.

(3) A Record of Proceedings Under Article 15, UCMJ, dated 19 March 2012, indicates the applicant received nonjudicial punishment for failing to obey a lawful regulation by wrongfully using Spice on or about 20 November 2012. Their punishment imposed a reduction to private (E-1); and suspended extra duty and restriction for 45 days.

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: The applicant asserts PTSD on their application and provided documentation of a 70% service-connected disability rating effective 2 February 2020 through Veterans Affairs (VA) for PTSD with Major Depressive Disorder and anxious distress.

(2) AMHRR provided: None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Veterans Affairs Rating Decision; Character Letter

6. POST SERVICE ACCOMPLISHMENTS: None provided with this application.

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

a. 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.

b. 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.

c. 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.

d. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, 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.

e. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers for ASAP services. 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. All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

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:

(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.

g. Army Regulation 635-200 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. It states:

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

(b) A general discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(2) 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. 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. A pattern of misconduct consisting of one of the following – discreditable involvement with civil or military authorities, or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army. 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) Chapter 15 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, it will normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE-1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

h. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14-12c (2), 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.

(1) An authenticated DD Form 214 (Certificate of Release or Discharge from Active Duty) provides the applicant was separated under the provisions of AR 635-200, Chapter 14-12c (2) for misconduct (drug abuse) with a general (under honorable conditions) characterization of service. In March 2012, the applicant received NJP for wrongful use of Spice and as a result, was reduced to the lowest grade. The applicant was flagged for involuntary separation, elected to consult with counsel, and declined to provide a personal statement. They served 3 years, 9 months, and 23 days of a 6 year-16-week enlistment contractual obligation.

(2) Separation exams medically qualified and psychiatrically cleared the applicant for separation. The applicant provided VA evidence indicating they receive a 70% service-connected disability rating for PTSD with MDD and anxious distress.

b. The applicant contends their record was otherwise exemplary and the single instance of misconduct was directly related to undiagnosed PTSD. They assert they were not provided rehabilitative alternatives or a proper behavioral health evaluation due to the zero-tolerance policy; however, similar situated Soldiers received inconsistent disciplinary outcomes. As a result of their discharge characterization, the applicant is ineligible for Post 9/11 GI Bill benefits which they state would provide critical educational and employment opportunities as a homeless veteran supporting their child. In support, a former colleague (SFC) states they have known the applicant since 2011 and believes the applicant's continued conduct reflects the quality of a capable veteran and recommends an upgrade to honorable for the applicant to attain another formidable career.

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 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.

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.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found indicate the applicant is 70% service connected for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of a BH condition that mitigates the basis of separation. The applicant was treated in service for symptoms of depression and was diagnosed with Acute Stress Reaction and Adjustment Disorder with Disturbance of Emotions and Conduct. In addition, the applicant is service connected by the VA for PTSD. Given the nexus between PTSD and the use of substances as a coping mechanism, his wrongful use of Spice is mitigated by his BH condition.

(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 condition or experience outweighed the listed basis for separation for the aforementioned reason.

b. Prior Decisions Cited: NA

c. Response to Contention(s): The applicant contends their record was otherwise exemplary and the single instance of misconduct was directly related to undiagnosed PTSD. They assert they were not provided rehabilitative alternatives or a proper behavioral health evaluation due to the zero-tolerance policy; however, similar situated Soldiers received inconsistent disciplinary outcomes. As a result of their discharge characterization, the applicant is ineligible for Post 9/11 GI Bill benefits which they state would provide critical educational and employment opportunities as a homeless veteran supporting their child. In support, a former colleague (SFC) states they have known the applicant since 2011 and believes the applicant's continued conduct reflects the quality of a capable veteran and recommends an upgrade to honorable for the applicant to attain another formidable career. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare, or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

d. The Board determined with the Board's medical advisor there was evidence of a BH condition that mitigates the basis of separation—wrongful use of Spice. The applicant is service connected by the VA for PTSD, so given the nexus between PTSD and the use of substances as a coping mechanism, his wrongful use of Spice is mitigated by his BH condition. The Board voted unanimously, 3-0, to upgrade the discharge to Honorable. Additionally, the Board recognized the applicant's Length (3y, 9m), Quality (ARCOM) and Combat to Iraq as well as instances of homelessness since his discharge.

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 Honorable.

(3) The Board voted to change the applicant's reason for discharge to JKN.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

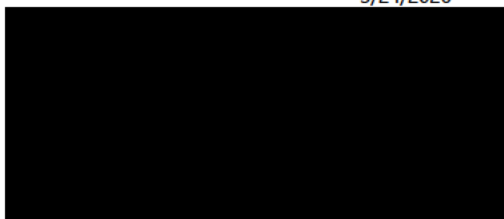
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10. BOARD ACTION DIRECTED:

- 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: No Change
- e. Change Authority to: AR 635-200

Authenticating Official:

3/24/2026



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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs