

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 25 January 2023
- b. **Date Received:** 30 January 2023
- 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, in effect, was informed by the VA some laws have changed, and the applicant could reapply for a discharge upgrade if they had been denied before. The VA informed the applicant to send evidence of the disabilities which are 100 percent total and permanent through the VA and was a contributing factor in the discharge.

(1) **Board Type and Decision:** In a records review conducted on 7 October 2025, and by a 4-0 vote, The Board determined the applicant's 70% Service Connected PTSD outweighed the basis for separation of wrongful marijuana use, due to a nexus between the PTSD and substance use for self-medication. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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. 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 (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 22 December 2009

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 30 November 2009

(2) **Basis for Separation:** The applicant was informed of the following reasons: For commission of a serious offense. On or between 2 August 2009 and 31 August 2009, the applicant wrongfully used marijuana.

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

(4) **Legal Consultation Date:** 8 December 2009

(5) **Administrative Separation Board:** NA

(6) Separation Decision Date / Characterization: 16 December 2009 / General
(Under Honorable Conditions)

5. SERVICE DETAILS:

- a. **Date / Period of Reenlistment Under Review:** 8 December 2008 / 5 years
- b. **Age at Enlistment / Education / GT Score:** 21 / High School Graduate / 92
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 88M1O, Motor Transport Operator / 3 years, 4 months, 13 days
- d. **Prior Service / Characterizations:** RA, 10 August 2006 – 7 December 2008 / HD
- e. **Overseas Service / Combat Service:** SWA / Iraq (17 April 2008 – 11 July 2009)
- f. **Awards and Decorations:** NDSM, GWOTSM, ICM-CS, ASR, OSR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) Electronic Copy of Specimen Custody Document – Drug Testing, 4 September 2009, indicates the applicant tested positive for THC 83 (marijuana) during an Inspection Other (IO) urinalysis testing conducted on 31 August 2009.

(2) Developmental Counseling Form for wrongful use of a controlled substance.

(3) FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 17 September 2009, indicates on or between 2 August 2009 and 31 August 2009, the applicant wrongfully used marijuana. The imposed punishment included a reduction to E-1, forfeiture of \$699 pay per month for two months, along with 45 days of extra duty and restriction (suspended).

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:** VA Rating Decision, 23 October 2019, indicates the applicant was granted 70 percent service-connected disability for PTSD; however, is being paid at the 100 percent rate because the applicant is unemployable due to the service connected disabilities.

(2) **AMHRR Listed:** Report of Mental Status Evaluation (MSE), 12 November 2009, 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, appreciated the difference between right and wrong, and met medical retention requirements. PTSD and mTBI screenings were conducted, but the screens were negative for both. The MSE does not reflect a diagnosis.

6. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; two third-party letters; VA summary of benefits letter; VA Rating Decision.

7. POST SERVICE ACCOMPLISHMENTS: The applicant is a pillar in the community, is a devoted spouse, a loving parent and is admired by the family and respected by friends.

8. 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.

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 3-7a 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.

(b) 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 14-3, prescribes 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.

(b) Paragraph 14-12c, states a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

(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 normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

9. 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 available evidence reflects the applicant received notification of the intent to discharge them from the U.S. Army for commission of a serious offense. On or between 2 August 2009 and 31 August 2009, the applicant wrongfully used marijuana. The applicant requested consulting counsel and representation by military counsel and was involuntarily discharged from the U.S. Army. The DD Form 214 provides the applicant was discharged with a character of service of general (under honorable conditions) for misconduct, (serious offense). The applicant completed 3 years, 4 months, 13 days of net active service this period.

c. The applicant contends being diagnosed with PTSD by the VA. The applicant provided VA Rating Decision, 23 October 2019, which indicates the applicant was granted 70 percent service-connected disability for PTSD; however, is being paid at the 100 percent rate because

the applicant is unemployable due to the service-connected disabilities. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 12 November 2009, which 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, appreciated the difference between right and wrong, and met medical retention requirements. PTSD and mTBI screenings were conducted, but the screens were negative for both. The MSE does not reflect a diagnosis.

d. The third-party statements provided with the application reflect the applicant's hard work and good character while serving in the Army and after serving in the Army.

e. The applicant is a pillar in the community, is a devoted spouse, a loving parent and is admired by the family and respected by friends. The Army Discharge Review Board has the authority to consider post-service factors when reviewing discharge recharacterization requests. However, no law or regulation permits upgrading an unfavorable discharge solely due to time passed or good conduct in civilian life. The Board evaluates each case individually to determine whether post-service achievements indicate previous in-service misconduct was an anomaly rather than a reflection of the applicant's overall character.

10. 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 the applicant is 70 percent 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 a review of the available information reflects the applicant has a BH condition that mitigates his misconduct as outlined in the Basis of Separation. He is 70 percent Service Connected for PTSD and given the nexus between PTSD and the use of substances to self-medicate, his misconduct characterized by wrongful use of marijuana is mitigated by his Service Connected BH condition and upgrade base on medical mitigation is supported.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the opine of the Board Medical Advisor, the Board concluded the applicant's 70% Service Connected PTSD outweighed the basis for separation of wrongful marijuana use, due to a nexus between the PTSD and substance use for self-medication.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD by the VA. The Board considered this contention, including the Board Medical Advisor's opinion, ultimately supported mitigation of the separation based on that diagnosis.

(2) The third-party statements provided with the application reflect the applicant's hard work and good character while serving in the Army and after serving in the Army. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record.

(3) The applicant is a pillar in the community, is a devoted spouse, a loving parent and is admired by the family and respected by friends. The Board considered this contention and found these factors, combined with the mitigating effect of the applicant's PTSD diagnosis, supported the decision to upgrade the discharge.

(4) The Board determined the applicant's 70% Service Connected PTSD outweighed the basis for separation of wrongful marijuana use, due to a nexus between the PTSD and substance use for self-medication. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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. The Board determined the reentry code is proper and equitable and voted not to change it.

d. 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 70% Service Connected PTSD outweighed the basis for separation of wrongful marijuana use, and the mitigating circumstances warranted an upgrade based on the totality of the evidence.

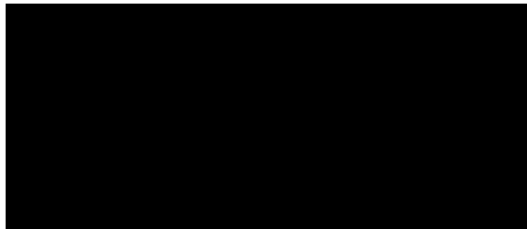
(3) The Board voted to change the applicant's reason for discharge Minor Misconduct with accompanying SPD code of JKN, under the same pretexts.

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

11. 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: AR 635-200

Authenticating Official:



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