

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 23 August 2023**b. Date Received:** 23 August 2023**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

**a. Applicant's Requests and Issues:** The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and changes to the SPD and RE codes, and the narrative reason.

**b.** The applicant seeks relief contending, in effect, they did not smoke while in the service and tried to explain the reasons why they failed the urinalysis (UA) and had evidence. The applicant did not receive assistance from the chain of command including the battalion commander, counsel, or Behavioral Health. The applicant was command directed to the Army Substance Abuse Program (ASAP), they had a good track record for about 3 months until they were released from ASAP, however their discharge papers was still processed. They were a good soldier, never got into any trouble prior to this or received a negative counseling and was liked by their platoon and platoon sergeants E-5 and above. The applicant is trying to get back into the service as soon as possible to still pursue a career field. The applicant and an Army Reserve Recruiter believe the RE-4 code is unjust since the applicant had a minor offense and the punishment did not fit the offense. Since the applicant completed the 3-month ASAP that was command directed, that the applicant received a RE code was believed to be at least an RE 3.

**c. Board Type and Decision:** In a telephonic personal appearance conducted on 13 May 2024, and by a 5-0 vote, the Board denied the request upon finding the applicant's characterization of service and narrative reason for separation were both proper and equitable. However, the Board did determine that the applicant's reentry eligibility code should, based on the applicant's length and quality of service, be changed to RE-3.

*Please see Section 10 of this document for more detail regarding the Board's decision.*

*(Board member names 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:** 12 April 2023**c. Separation Facts:****(1) Date of Notification of Intent to Separate:** NIF**(2) Basis for Separation:** 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:** 18 May 2020 / 4 years

**b. Age at Enlistment / Education / GT Score:** 17 / High School Graduate / 94

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 15P10, Aviation Operations Specialist / 2 years, 10 months, and 25 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** Korea / None

**f. Awards and Decorations:** NDSM, GWOTSM, KDSM, ASR, OSR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:**

**(1)** The applicant provided Orders 095-0036, 5 April 2023, showing the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 12 April 2023 from the Regular Army.

**(2)** The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant had not completed the first full term of service. The applicant was discharged on 12 April 2023 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):**

**(1) Applicant provided:** None

**(2) AMHRR Listed:** None

*The ARBA's medical advisor reviewed DoD and VA medical records.*

**5. APPLICANT-PROVIDED EVIDENCE:** Online DD Form 293; separation orders; the following is listed on the application, however, was not provided, DD Form 214 Member 4 copy; Birth Certificate; Rehabilitation document; clearing papers for substance use disorder clinical care.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

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

**a.** Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s)

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

**b.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

**(2)** Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

**c.** 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.

**d.** Army Regulation 600-85 (ASAP) provides comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers of all components, Army civilian corps members, and other personnel eligible for ASAP services.

**(1)** Paragraph 2-29, commanders of companies, detachments, and equivalent units will, in part:

**(a)** Immediately report all offenses involving illegal possession, sale, or trafficking in drugs or drug paraphernalia to CID. Commanders are no longer required to report positive UA results to local law enforcement; however, this does not alleviate commanders of the requirement to: Flag the Soldier in accordance with paragraph 10-6 and refer the Soldier to behavioral health for a substance use disorder (SUD) evaluation and possible treatment by completing DA Form 8003 (ASAP Enrollment).

**(b)** Commanders will report the initiation and final disposition for all Soldiers with an illicit positive drug test and Soldiers involved in two serious incidents of alcohol-related misconduct within 12 months to the ASAP manager. In addition, commanders must complete and submit DA Form 4833 in accordance with AR 190-45 (Law Enforcement Reporting).

**(c)** Ensure that Soldiers promptly provide medical evidence for legitimate use of a prescribed drug to the medical review officer when requested.

**(d)** Refer any Soldier to behavioral health for SUD evaluation within 5 duty days of notification that the Soldier received a positive UA for illicit drug use or was involved in alcohol-related misconduct.

**(e)** Initiate separation for all alcohol and drug rehabilitation failures in accordance with paragraph 1-7d (4).

**(2)** Paragraph 10-12a defines the Limited Use Policy and states unless waived under the circumstances listed in paragraph 10-13d, Limited Use Policy prohibits the use by the government of protected evidence against a Soldier in actions under the UCMJ or on the issue of characterization of service in administrative proceedings. Additionally, the policy limits the characterization of discharge to "Honorable" if protected evidence is used.

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

**(1)** Paragraph 2-2 (Notice), stated commanders were to notify the soldier in writing of the following:

**(a)** Provide the basis of the proposed separation, including the circumstances upon which the action was based, and a reference to the applicable regulatory separation provision.

**(b)** The Soldier will be advised of the following rights:

- whether the proposed separation could result in discharge, release from active duty to a Reserve Component, or release from custody and control of the Army

- the least favorable characterization of service or description of separation he/she could receive
- the type of discharge and character of service recommended by the initiating commander and that the intermediate commander(s) may recommend a less favorable type of discharge and characterization of service than that recommended by the initiating commander

**(c)** Further advise the Soldier of the following rights:

- consult with military or civilian counsel at their own expense
- submit statements in their own behalf
- obtain copies of documents that will be sent to the separation authority supporting the proposed separation
- to a hearing before an administrative separation board under section III of this chapter if they had 6 or more years of total active and Reserve service on the date of initiation of recommendation for separation
- waive their rights

**(2)** 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.

**(3)** 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.

**(4)** 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.

**(5)** 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.

**(6)** 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.

**(7)** 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.

f. Army Regulation 635-5-1 (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).

g. 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.

**8. SUMMARY OF FACT(S):** 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 changes to the SPD and RE codes, and the narrative reason. 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 which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 shows the applicant served 2 years, 10 months, and 25 days and was discharged on 12 April 2023 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 requests the narrative reason for the discharge to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c (2), AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Drug Abuse)," and the separation code is "JKK." Army Regulation 635-8 (Separation Processing and Documents) governs preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (SPD Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

d. The applicant requests the SPD code to be changed to rejoin the Army. The SPD codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (SPD Codes) 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 requests the RE code to be changed to rejoin the Army. The applicant and an Army Reserve Recruiter believe the RE-4 code is unjust since the applicant had a minor offense and the punishment did not fit the offense. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on AR 601-210, the applicant was appropriately assigned an RE code of "4." An RE code of "4" cannot be waived, and the applicant is no longer eligible for reenlistment.

f. The applicant contends, in effect, they did not smoke while in the service and tried to explain the reasons why they failed the UA and had evidence. The applicant did not receive assistance from the chain of command including the battalion commander, counsel, or Behavioral Health. The applicant was command directed to the ASAP, they had a good track record for about 3 months until they was released from ASAP, however their discharge papers was still processed. The applicant did not provide evidence for the reasons why they failed the UA as stated in their application. The applicant's AMHRR is void of the case separation file.

g. The applicant contends, in effect, they was a good soldier, never got into any trouble prior to this or received a negative counseling and was liked by their platoon and platoon sergeants E-5 and above. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

h. Analyst notes, the Military Review Boards representative contacted the applicant on 16 April and 1 May 2024 requesting missing documents that they listed on their application, however as of 6 May 2024 the applicant did not submit the documents.

i. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

**9. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE:** In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

a. **The applicant submitted the following additional document(s):** N/A

b. **The applicant presented the following additional contention(s):** Applicant provided oral argument and statements in support of the contentions provided in written submissions and in support of previously submitted documentary evidence.

c. **Counsel / Witness(es) / Observer(s):** N/A

**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? **No.** The Board's Medical Advisor, a voting member, reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused, or mitigated a discharge.

(2) Did the condition exist, or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

**b.** Response to Contention(s):

(1) The applicant contends the applicant did not smoke while in the service and tried to explain the reasons why the applicant failed the UA and had evidence. The applicant did not receive assistance from the chain of command including the battalion commander, counsel, or Behavioral Health. The applicant was command directed to ASAP, the applicant had a good track record for about 3 months until the applicant released from ASAP, however the discharge papers were still processed. The Board considered this contention but found insufficient supporting evidence in the applicant's AMHRR, applicant-provided evidence, or the applicant's testimony to convince the Board that the applicant did not commit an illegal substance abuse offense. Therefore, a change to the narrative reason for separation and characterization of service is not warranted.

(2) The applicant contends the applicant was a good soldier, never got into any trouble prior to this or received a negative counseling and was liked by the applicant's platoon and platoon sergeants E-5 and above. The Board considered the applicant's service record and determined that applicant's length and quality of service outweighed the applicant's reentry eligibility code of RE-4. The Board voted to change the RE-code to a RE-3, which is a waivable code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate.

**c.** The Board denied the request upon finding the applicant's characterization of service and narrative reason for separation were both proper and equitable. However, the Board did determine that the applicant's reentry eligibility code should, based on the applicant's length and quality of service, be changed to RE-3.

**d.** Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence before the Board, the applicant was not found to hold an in-service behavior health condition that would potentially outweigh illegal substance abuse offense. The Board also considered the applicant's contentions regarding the failed urinalysis being a mistake and good service and found that the totality of the applicant's record does not warrant a discharge upgrade. The applicant did not present any issues of impropriety for the Board's consideration. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the applicant's



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General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and the reason the applicant was discharged was both proper and equitable.

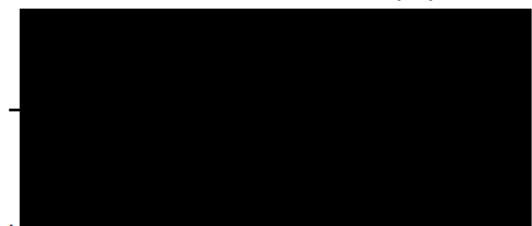
(3) The Board voted to change the RE-code to a RE-3 due to the applicant's length and quality of service. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate.

**11. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** No Change
- c. **Change Reason / SPD Code to:** No Change
- d. **Change RE Code to:** RE-3
- e. **Change Authority to:** AR 635-200

**Authenticating Official:**

3/12/2025



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

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