

**1. Applicant's Name:**

- a. **Application Date:** 17 November 2023
- b. **Date Received:** 28 November 2023
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is general honorable conditions. The applicant requests an upgrade to honorable.

(2) The applicant seeks relief contending they are trying to move forward with their life, raise their children, and be a productive member of society. At the time in 2014 there were struggling with internal conflict, was young, and did not handle things in the best way.

**b. Board Type and Decision:** In a records review conducted on 20 November 2024, and by a 3-2 vote, the Board denied the request upon finding the separation was both proper and equitable.

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Drug Abuse) / Army Regulation 635-200, paragraph 14-12c(2) / JKK / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 20 October 2014

**c. Separation Facts:** The applicant's case separation file is void of several documents from their Army Military Human Resource Record (AMHRR). On 5 January 2024 the Army Review Boards Agency requested the applicant provide their discharge packet (case separation files), as of this date there has been no response.

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 22 February 2010 / 8 years (Army National Guard of the United States (ARNGUS))

**b. Age at Enlistment / Education / GT Score:** 19 / HS Graduate / 125

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 12N1O, Horizontal Construction Engineer / 4 years, 7 months, 29 days

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

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

**f. Awards and Decorations:** NDSM, GWTSM, ASR

**g. Performance Ratings:** NA

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

(1) A State of Ohio, Adjutant General's Department [National Guard] Orders 114-184, dated 24 April 2014, ordered the applicant to active duty as a member of their Reserve Component unit for a period not to exceed 400 days, in support of Operation Enduring Freedom, with a reporting dated of 27 May 2014.

(2) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 20 October 2014, with 4 months and 24 days of net active service this period. The DD Form 214 show in – item 12e (Total Prior Active Service) – 4 months, 17 days, item 12e (Total Prior Inactive Service) – 3 years, 10 months, 18 days, item 18 (Remarks) – MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE, item 24 (Character of Service) – General (Under Honorable Conditions), item 28 (Narrative Reason for Separation) – Misconduct (Drug Abuse).

(3) A National Guard Bureau (NGB) Form 22 (National Guard Report of Separation and Record of Service) reflects the applicant was separated from the ARNG on 20 October 2014. The NGB Form 22 shows in – item 10a (Net Service This Period) – 4 years, 7 months, 29 days, item 23 (Authority and Reason) – National Guard Regulation 600-200, paragraph 6-35i(1), item 24 (Character of Service) – General (Under Honorable Conditions), item 27 (Reenlistment Eligibility) – RE-4.

i. **Lost Time / Mode of Return:** None

j. **Behavioral Health Condition(s):** NIF

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- two DD Forms 214
- email exchange, Commander and Applicant, subject: Pleading My Worth

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

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

a. Title 10, U.S. Code, Section 1553, (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, Title 10 U.S. Code, Section 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 (DoD) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

**d.** Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) prescribes policies and standards to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. It prescribes the policies, procedures, and the general provisions governing the separation of Soldiers before expiration term of service or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

**(1)** 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.

**(2)** 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.

**(3)** A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

**(4)** 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. Paragraph 14-12c(2) (Abuse of Illegal Drugs is Serious Misconduct), stated, however; 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. 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.

**e.** National Guard Regulation 600-200 (Enlisted Personnel Management) establishes standards, policies, and procedures for the management of the Army National Guard and the Army National Guard of the United States enlisted Soldiers in the functional areas of – to include enlisted separations.

**(1)** An Honorable discharge 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 another characterization would be clearly inappropriate. When a Soldier is discharged before expiration of the service obligation for a reason for which an honorable characterization is discretionary, the following consideration apply – where there have been infractions of discipline, the extent thereof should be considered, as well as the seriousness of the offense(s), a Soldier will not necessarily be denied an honorable characterization solely by reason of a specific number of convictions by court-martial or actions under the UCMJ Article 15, conviction by a general court-martial or by more than one special court-martial does not automatically rule out the possibility of awarding an honorable characterization of service, an honorable characterization may be awarded when disqualifying entries in the Soldier's military record are outweighed by subsequent honorable and faithful service over a greater period of time during the current term of service, it is a pattern of behavior and not an isolated instance that should be considered the governing factor in determining the character of service, unless otherwise ineligible, a Soldier may receive an honorable characterization of service if they have, during their current enlistment, or any extension thereof, received a personal decoration.

**(2)** A General (Under Honorable Conditions) is if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as general, under honorable conditions. Characterization of service as general (under honorable conditions) is warranted when significant negative aspect of the Soldier's conduct or performance of duty outweighs positive aspects of the Soldier's military record.

**(3)** A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Paragraph 6-35i(1) stated Acts or patterns of misconduct under the Uniform Code of Military Justice or similar laws. Administrative separation board procedures is required, this includes abuse of illegal drugs. All Soldiers identified as abusers of illegal drugs will be referred for treatment as appropriate regardless of the commander's intent to take administrative, nonjudicial or judicial actions.

f. 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, paragraph 12c(2), 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 DoD Instruction 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):**

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. A review of the available evidence provides an administrative irregularity in the proper retention of records, specifically the AMHRR is void of the case files for approved separation. Due to the lack of evidence the specific facts and circumstances surrounding the misconduct (drug abuse) that led to their discharged under the provision on Army Regulation 635-200, paragraph 14-12c(2) are unknown. Notwithstanding the absence of records, the DD Form 214, provides the applicant was discharged with a character of service of general (under honorable conditions) for misconduct (drug abuse). They completed 4 months and 24 days of net active service this period; and did not complete their first full term of service of their ARNGUS 8-year obligation.

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; to include abuse of illegal drugs; 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.

d. Published DoD 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. 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 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 they are trying to move forward with their life, raise their children, and be a productive member of society.

The Board considered this contention and determined based on the totality of the applicant's record and liberal consideration applied, an upgrade is not warranted. The applicant's discharge is proper and equitable. The Board recommends the applicant attend a personal appearance hearing to provide any new evidence to prove the discharge was either improper or inequitable.

(2) The applicant contends at the time in 2014 there were struggling with internal conflict, was young, and did not handle things in the best way.

The Board considered this contention and determined that the applicant's youth and immaturity did not outweigh the seriousness of the applicant's wrongful use of marijuana, the accepted basis for separation. The Board also determined that there is insufficient evidence in the applicant's official record or provided by the applicant that the applicant was not provided sufficient access to BH resources. Therefore, the Board determined no change is warranted.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**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 did not have a Behavioral Health (BH) condition or experience that would excuse or mitigate the offense of wrongfully use of marijuana, the accepted basis for separation. The Board determined the applicant's file lacks quality, combat and post-service accomplishments that could potentially mitigate the misconduct. The Board also considered the applicant's contention regarding youth and struggling with internal conflict and found that the totality of the applicant's record does not warrant a discharge upgrade. 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 General (Under Honorable Conditions) 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 rationale, as the reason the applicant was discharged was both proper and equitable.

(3) 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:** No
- b. Change Characterization to:** No Change
- c. Change Reason / SPD Code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** No Change

**Authenticating Official:**

2/20/2025

**X**

Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**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

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