

1. Applicant's Name: [REDACTED]**a. Application Date:** 20 January 2025**b. Date Received:** 3 February 2025**c. Counsel:** [REDACTED]**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, through counsel, requests an upgrade to honorable along with a narrative reason, reentry (RE) code, separation program designator (SPD) code change.

b. Applicant Contention(s)/Issue(s): The applicant/counsel requests relief contending, in effect, the applicant served honorably for three years and six months prior to the discharge, notwithstanding a single act of indiscretion. The applicant had an act of indiscretion where the applicant made an uncharacteristic bad decision and was discharged due to that single act. During the time of the misconduct, the applicant was young and experienced a series of significant personal losses and emotional challenges. If the applicant had been provided access to mental health treatment and psychological support, the applicant could have avoided further marijuana use and continued to serve honorably. Although the applicant's indiscretion violated UCMJ regulations, the offense should not be enough to prevent the applicant from obtaining an honorable discharge. The discharge took place over 15 years, and it is unjust to continue to characterize and punish the applicant. The applicant's counsel states the applicant has taken responsibility for the misconduct and since the discharge, the applicant has become a model citizen with no criminal record and no involvement with alcohol or drugs. The counsel states no punitive discharge would have been issued if the applicant had been allowed to correct the mistake.

a. Board Type and Decision: In a telephonic personal appearance board conducted on 18 August 2025, and by a 5-0 vote the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service. 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, and the reentry code to RE-3.

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, Paragraph 14-12c(2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 16 February 2010**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 14 December 2009

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant wrongfully used marijuana.

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

(4) Legal Consultation Date: 16 December 2009

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 16 February 2010 / General (Under Honorable conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 18 June 2008 / 6 years

b. Age at Enlistment / Education / GT Score: 21 / GED / 92

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B10, Infantryman / 3 years, 6 months, 1 day

d. Prior Service / Characterizations: RA, 16 August 2006 – 17 June 2008 / HD

e. Overseas Service / Combat Service: SWA / Iraq (20 September 2007 – 15 November 2008)

f. Awards and Decorations: ARCOM, NDSM, GWOTSM, ICM-CS, ASR, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Company Grade Article 15, 28 July 2009, reflects on or about 27 June 2009, the applicant was drunk and disorderly. The punishment consisted of reduction to private first class/E-3, suspended, to be automatically remitted if not vacated before 27 January 2010; forfeiture of \$409 pay, suspended, to be automatically remitted if not vacated before 27 January 2010; extra duty for 14 days; and restriction for 45 days, suspended, to be automatically remitted if not vacated before 27 January 2010. On 30 September 2009, the punishment of reduction to E-3 and forfeiture of \$409 pay was vacated due to the applicant wrongfully using cocaine between on or about 25 July 2009 and 24 August 2009.

(2) Field Grade Article 15, 23 October 2009, reflects the applicant wrongfully used marijuana between on or about 25 July 2009 and 24 August 2009. The punishment consisted of to private/E-1; forfeiture of \$699 pay; extra duty for 45 days; and restriction for 45 days.

(3) Report of Behavioral Health Evaluation, 5 November 2009, reflects the applicant had the mental capacity to understand and participate in the proceedings and was mentally responsible.

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: None

(2) AMHRR provided: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, Counsel’s Brief with 6 exhibits (45 total pages)

6. POST SERVICE ACCOMPLISHMENTS: The applicant’s counsel states the applicant has become a model citizen with no criminal record and no involvement with alcohol or drugs.

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

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

b. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. Army Regulation 15-180 (Army Discharge Review Board), 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.

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.
- 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.

(c) An under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(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 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. 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 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

(4) 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, Paragraph 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 along with an SPD code, RE code, and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The applicant requests the narrative reason, SPD code, and RE Code be changed. The applicant was separated under the provisions of AR 635-200, Chapter 14-12c(2), with a general (under honorable conditions) discharge and a RE code of "4." The narrative reason specified by Army Regulations for a discharge under this chapter is "Misconduct (Drug Abuse)" and the separation code is "JJK." Army Regulation 635-8, Separation Documents governs the 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, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason or SPD code to be entered under this regulation. 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.

c. The applicant's counsel contends the applicant served honorably for three years and six months prior to the discharge. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

d. The applicant's counsel contends the applicant had an act of indiscretion and the applicant made an uncharacteristic bad decision and was discharged due to that single act. The evidence reflects the applicant's misconduct was not an isolated incident.

e. The applicant's counsel contends during the time of the misconduct, the applicant was young and experienced a series of significant personal losses and emotional challenges and if the applicant had been provided access to mental health treatment and psychological support, the applicant could have avoided further marijuana use and continued to serve honorably. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

f. The applicant's counsel contends although the applicant's indiscretion violated UCMJ regulations, the offense should not be enough to prevent the applicant from obtaining an honorable discharge and states no punitive discharge would have been issued if the applicant had been allowed to correct the mistake. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization and paragraph 1-17d(2), entitled counseling and rehabilitative requirements, states the separation authority may waive the rehabilitative requirements in circumstances where common sense and sound judgment indicate such a transfer will serve no useful purpose or produce a quality Soldier.

g. The applicant's counsel states since the discharge, the applicant has been a model citizen with no criminal record and no involvement with alcohol or drugs. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments

help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

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): None

b. The applicant presented the following additional contention(s): None

c. Counsel: [REDACTED]

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: Mild TBI as per VA.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA documented diagnosis of mild TBI was based on blast exposure in 2007-2008 while applicant was in Army.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there are no mitigating BH conditions. While on active duty, the applicant was not diagnosed with any non-substance related BH condition. There is no documentation of trauma symptoms or TBI symptoms in his medical records. He has been assessed by the VA and diagnosed with mild TBI based on his report of being exposed to a blast while deployed. However, as his positive urinalysis for THC occurred almost a year after he returned from deployment, it is very unlikely his mild TBI contributed to his use of marijuana given that the natural course of mild TBI is almost always resolution of symptoms within hours to days after the event. Occasionally, it may take 2-3 months for symptoms to clear, but this is more likely to happen in individuals who incurred mild TBIs associated with loss of consciousness and persistent residual symptoms. In the applicant's case, he reported neither loss of consciousness nor alteration of consciousness and his residual TBI symptoms resolved within several days after the blast. Notably, the VA did not service connect him for TBI either. Regarding his history of IPV, there is no mitigation offered under liberal consideration given that he was the alleged offender and not victim of the IPV incident.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on this review, the Board concluded that an upgrade is appropriate to correct an injustice and to more accurately reflect the applicant's service.

b. Prior Decisions Cited: NA – Applies to Personal Appearances only.

c. Response to Contentions:

(1) The applicant's counsel contends the applicant served honorably for three years and six months prior to the discharge.
The Board acknowledged this contention.

(2) The applicant's counsel contends the applicant had an act of indiscretion and the applicant made an uncharacteristic bad decision and was discharged due to that single act.
The Board acknowledged this contention.

(3) The applicant's counsel contends during the time of the misconduct, the applicant was young and experienced a series of significant personal losses and emotional challenges and if the applicant had been provided access to mental health treatment and psychological support, the applicant could have avoided further marijuana use and continued to serve honorably.
The Board acknowledged this contention.

(4) The applicant's counsel contends although the applicant's indiscretion violated UCMJ regulations, the offense should not be enough to prevent the applicant from obtaining an honorable discharge and states no punitive discharge would have been issued if the applicant had been allowed to correct the mistake.
The Board acknowledged this contention.

b. The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, the circumstances surrounding the discharge. 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, and the reentry code to RE-3.

b. 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 applicant's petition, available records and any supporting documents included with the petition.

(2) The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Combat, Quality) and concurred that although there is no BH mitigation the Board voted to upgrade the applicant based on the service record. The applicant's wife was pregnant with another man's child which caused extreme difficulty with anger and embarrassment. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable.

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

(4) The RE code will change to RE3.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20250003854

2. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

3/3/2026



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