

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 October 2024

DOCKET NUMBER: AR20240001438

APPLICANT REQUESTS:

- an upgrade of his under other than honorable conditions discharge
- correction of his narrative reason for separation to reflect "Secretarial Authority"

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Counsel Brief and 8 Exhibits (122 pages)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), Section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant provides a synopsis of his military service in Exhibit 1, wherein he states he voluntarily enlisted in the Army for three years on 14 May 2002. During Basic Combat Training, he started suffering from significant pain in his lower legs and ankles. Over the course of several months, he was diagnosed with shin splints, bilateral ankle edema, and stress fractures in his knees. He was offered a medical discharge but refused and continued treatment. He wanted to serve and protect his country, especially after the attacks on 11 September 2001.

a. After approximately three months of basic training and six months of training at Fort Benning, GA, he was deployed to Iraq for approximately seven months. During his deployment to Iraq, he experienced the rigors of war, witnessing death, destruction, and the constant stressors and anxiety associated therewith. He witnessed the death of his First Sergeant and saw deceased Iraqi citizens line the streets following an attack, which was particularly traumatic.

b. On one occasion, he was tasked with securing a hospital in Iraq. They were stationed in front of a hospital with at least 150 injured Iraqis and their families trying to

get help. The anxiety he experienced that day being completely exposed and outnumbered was overwhelming. At some point, a car pulled up and two men carried a young girl, no more than 10 or 11 years old, in their arms. Half of her body was burned, and he cannot forget the image of her burned, lifeless body being carried into the hospital.

c. On another occasion, he was patrolling a recently cleared area when they came across a minivan. Upon checking the vehicle, he saw eight dead Iraqis covered in blood with flies resting on their eyes. On another occasion, he was patrolling near a mall and watched a young man kicking a can around outside. A few moments later, he heard a massive "boom" from an improvised explosive device. When he looked over, he saw the man 15 to 20 feet in the air. They rushed over to him and saw that he was severely bleeding with shrapnel embedded in his body. They administered lifesaving medical aid until his family arrived with their vehicle and took him to the hospital.

d. These are some of the countless tragedies that he witnessed in Iraq that plagued him throughout his time there. While he was there, he began suffering from anxiety and nightmares for the first time and they were made worse by his endless fear. In an effort to cope with the constant stress, anxiety, and trauma, he frequently smoked cigarettes and occasionally drank alcohol.

e. Upon returning to the U.S., he participated in a brief interview with a chaplain who asked if he needed any help; however, he did not feel encouraged or comfortable explaining how he was feeling. He did not receive any other type of evaluation or help to cope with what happened in Iraq. Due to the lack of help, he continued self-medicating with cigarettes and started to increase his alcohol consumption.

f. When he returned to Fort Benning, he was told he would not be deployed again, which was a relief. He finally started to feel safe. But he constantly experienced extreme anxiety, paranoia, hypersensitivity, and continued to suffer from nightmares focused on his time in Iraq. He also heard stories from other Soldiers about their time in Iraq, which terrified him even more. He was frequently chastised by people he met who called him a murderer, rapist, and "baby killer" as a result of their own impression of the war in Iraq, without knowing anything about what he did or did not do while deployed.

g. Eventually, his self-medication escalated, and he started using marijuana. He eventually tested positive for marijuana and received an Article 15, which felt like a breaking point. He lost his rank, started having trouble with finances, had trouble with his significant other, and missed his family on top of dealing with his mental health issues.

h. When he was told that he was being deployed to Iraq again he felt like he was on the verge of a nervous breakdown. He panicked and left the base for more than 30 days, which resulted him being discharged under other than honorable conditions.

i. While serving, he deployed to Iraq, was deployed to the National Training Center (NTC) twice, and participated in a major field exercise at Ford Stewart, GA. He also earned the National Defense Service Medal, Global War on Terrorism Expeditionary and Service Medals, the Army Service Ribbon, the Presidential Unit Citation, and Combat Infantryman Badge. Although the applicant states that copies of these commendations are attached as Exhibit "A," there is no Exhibit "A", and the documents did not accompany his application.

j. After leaving the military, he struggled for years with anxiety, depression, nightmares and flashbacks of Iraq, constant fear of harm coming to himself or his family, insomnia, and irritation. He also has a scent memory attached to Iraq and it feels like the smell of death lingers in his brain. Every time he experiences a nightmare or flashback, he also experiences the sickening smell of death.

k. He eventually contacted the Department of Veterans Affairs (VA) and started receiving much needed care. After two friends with whom he served in Iraq committed suicide, he was motivated to make sure that did not happen to him. Following a mental health interview in 2014, he was diagnosed with post-traumatic stress disorder (PTSD) resulting from his military service and was prescribed sertraline to help address his ongoing anxiety, flashbacks, and nightmares.

l. He was diagnosed with service-connected PTSD by Ms. C, a Licensed Clinical Social Worker (LCSW) from the Center City Philadelphia Veterans Center and has attended fifteen individual counseling sessions with her from December 2021 through October 2022 on a bi-weekly basis. She rendered a statement in support of this petition, a copy of which is attached as Exhibit "8."

3. Counsel provides a brief and seven additional exhibits on behalf of the applicant which are available in their entirety for the Board's consideration. Counsel restates the key points made by the applicant in the preceding paragraph. Counsel contends the applicant's petition should be granted because service-related mental health issues led to his isolated instances of misconduct against an otherwise unblemished and decorated service record; and justice and equity, in light of the totality of the applicant's circumstances, support such a decision. The applicant experienced only two disciplinary issues, each of which occurred after his exposure to violent and traumatic events in Iraq. However, these disciplinary issues were closely related to his mental health issues stemming from his time in Iraq. Upon being notified that he would be deployed to Iraq a second time, the applicant experienced panic and intense distress, symptoms related to PTSD.

a. Current Department of Defense policies and guidance clearly support granting clemency for Soldiers whose misconduct can be mitigated by the existence of a mental health condition. These policies are discussed in detail in the References portion of this Record of Proceedings. Counsel specifically refers to the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (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; which was published on 25 August 2017 and is commonly known as the Kurta Memo. This Board must inquire into whether the applicant's PTSD, and its effects on his physical and mental health condition, excuses or mitigates his discharge. If the Board finds that the misconduct is sufficiently mitigated, the Board should upgrade his discharge.

b. The applicant's conditions and experiences outweigh his discharge. His month-long absence was a product of his severe fear and anxiety, both symptoms of his PTSD.

c. Counsel provides the following documents in support of this petition:

(1) Exhibit 1 - the applicant's previously discussed self-authored affidavit.

(2) Exhibit 2 - the applicant's enlistment documents.

(3) Exhibit 3 - the applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty).

(4) Exhibit 4 - Staff Judge Advocate (SJA), Headquarters, U.S. Army Infantry Center and Fort Benning, Fort Benning, GA memorandum, Subject: Advice on Disposition of Court-Martial Charges, U.S. versus [the applicant], dated 19 November 2004.

(5) Exhibit 5 - Permanent Order 123-1 issued by Headquarters, 3d Brigade, 3d Infantry Division (Mechanized) on 3 May 2003 and continuation page with a list of Soldiers, including the applicant, who were awarded the Combat Infantryman Badge for ground combat against enemy ground forces from 20 March 2003 to 14 April 2003.

(6) Exhibit 6 - the applicant's DD Form 214 and an undated Headquarters, 3d Unit of Action, 3d Infantry Division, Fort Benning, GA memorandum, Subject: Request for Discharge in lieu of Trial by Court-Martial,[the applicant] rendered by the applicant's brigade commander which shows he recommended the applicant's discharge request be approved with a General, Under Honorable conditions service characterization.

(7) Exhibit 7 - the applicant's military medical record.

(8) Exhibit 8 - letter rendered by Ms. C, LCSW at a Veterans Center in Philadelphia, PA on 22 September 2022 shows the applicant was seen there for individual counseling sessions since 22 December 2021 and had attended 13 individual sessions during that time. He would continue to be seen every two or three weeks. She noted meeting with the applicant for his sessions and that he continued to experience PTSD symptoms which resulted from his military service and was diagnosed by the VA in 2014.

4. On 14 May 2002, the applicant enlisted in the Regular Army.

5. A manifest shows the applicant was scheduled to deploy to one of the Joint Readiness Training Centers (JRTC) as a member of 1st Battalion, 30th Infantry Regiment in August 2004.

6. The applicant's duty status was changed from present for duty (PDY) to absent without leave (AWOL) effective on 30 July 2004.

7. On 28 August 2004, his duty status was changed from AWOL to dropped from rolls (DFR) and he was reported to law enforcement agencies as a deserter.

8. On 30 August 2004, the applicant's duty status was changed from DFR to PDY, and he was returned to military control.

9. A DA Form 2856 (Developmental Counseling Form) shows the applicant was counseled by his company commander on 17 September 2004 for the following reasons:

- Failure to obey an order or regulation
- Allowing an unlicensed person to drive his privately owned vehicle
- Larceny of two packages of cigarettes from the Main Post Exchange
- Being AWOL from 30 July 2004 to 28 August 2004
- Missing Movement to JRTC, Fort Polk, LA
- Desertion
- Recommendation for appearance before a General Court-Martial

10. A DD Form 458 (Charge Sheet) shows on 27 October 2004, court-martial charges were preferred against the applicant for violation of the Uniform Code of Military Justice (UCMJ) by going AWOL from on or about 30 July 2004 and remaining so absent until on or about 30 August 2004; and for missing movement on or about 4 August 2004. The applicant's chain of command and the Staff Judge Advocate recommended trial by Special Court-Martial. On 19 November 2004 the General Convening Court-Martial

Authority approved the recommendation. The applicant acknowledged receipt of the charge sheet annotating referral on 22 November 2004.

11. On 30 November 2004, the applicant voluntarily requested discharge under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 10, in lieu of trial by court-martial. He consulted with legal counsel and was advised of the basis for the trial by court-martial; the maximum permissible punishment authorized under the UCMJ; the possible effects of a UOTHC discharge; and the procedures and rights that were available to him. The applicant elected to submit a statement in his own behalf wherein he acknowledged his mistake and noted he was under a lot of stress right before his AWOL. He felt like he was on the verge of a nervous breakdown. He was experiencing trouble at work, trouble with his finances, trouble with his fiancée, and missing his family. In part, the applicant mentioned he had deployed to NTC twice and participated in a major field exercise at Fort Stewart, GA. He was not aware that he was supposed to go to JRTC at the time he went AWOL. He returned to take responsibility for his actions. The applicant did not mention ever deploying to Iraq or any other hostile fire area.

12. On an unspecified date, the applicant's brigade commander recommended approval of his request for discharge with the issuance of a general discharge.

13. On 14 December 2004, the separation authority approved the applicant's request for discharge in lieu of trial by court-martial. He directed his service be characterized as under other than honorable conditions. His rank/pay grade at the time was PV1/E-1.

14. He was discharged on 7 January 2005, under the provisions of Army Regulation 635-200, Chapter 10, by reason of "In Lieu of Trial By Court-Martial" with Separation code "KFS" and Reentry code "4." His service was characterized as under other than honorable conditions. He completed 2 years, 7 months, and 24 days of active service.

15. The applicant's Army Military Human Resource Record, Enlisted Record Brief, and DD Form 214 are void of any indication the applicant deployed to Iraq or any other hostile fire area during his period of service. The applicant also did not mention an overseas deployment in his appeal to the separation authority prior to his discharge.

16. Army Regulation 635-200 states a Chapter 10 is a voluntary discharge request in-lieu of trial by court-martial. In doing so, he would have waived his opportunity to appear before a court-martial and risk a felony conviction. A characterization of UOTHC is authorized and normally considered appropriate.

17. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

18. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under other than honorable conditions (UOTHC) characterization of service to Under Honorable Conditions (general) and correction of his narrative reason for separation to reflect "Secretarial Authority." On his DD Form 149, the applicant indicated that Posttraumatic Stress Disorder (PTSD) is related to his request. More specifically, he stated he experienced 'numerous violent acts' while serving in Iraq which resulted in a diagnosis of PTSD. Furthermore, he stated that he continues to experience anxiety, paranoia, hypersensitivity, and nightmares as a result of his service in Iraq which has impacted his readjustment to daily living. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) the applicant enlisted in the Regular Army (RA) on 14 May 2002 as a 11C (Indirect Fire Infantryman), 2) the applicant was counseled by his company commander on 17 September 2004 for the following reasons: failure to obey an order or regulation, allowing an unlicensed person to drive his privately owned vehicle, larceny of two packages of cigarettes, being AWOL from 30 July 2004 to 28 August 2004, missing movement to JRTC, desertion, and recommendation for an appearance before a General Court-Martial, 3) on 27 October 2004, court-martial charges were preferred against the applicant for going AWOL from 30 July 2004 to 30 August 2004 and for missing movement on 04 August 2004, 4) on 30 November 2004 the applicant requested discharge under the provisions of Army Regulation (AR) 635-200, Chapter 10, in lieu of trial by court-martial. He submitted a statement on his own behalf dated 07 December 2004 acknowledging his mistake and noting that he was under a lot of stress before going AWOL. In the statement, the applicant also stated that he deployed to Iraq for 7 months. 4) the applicant was discharged on 07 January 2005 under the provisions of AR 635-200, Chapter 10, in lieu of court-martial with a separation code of KFS and reentry code of '4,' 5) the applicant's Army Military Human Resource Record (AMHRR), Enlisted Record Brief (ERB), and DD Form 214 are void of any indication that he deployed to Iraq or any other hostile fire area during his period of service. 6) an exhibit provided by his counsel, Permanent Order 123-1 dated 3 May 2003 and a continuation page shows a list of Soldiers, to include the applicant, who were awarded the Combat Infantryman Badge (CIB) for ground combat against enemy ground forces from 20 March 2003 to 14 April 2003.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. As part of his application, the applicant provided copies of his in-service medical records from 23 February 2002 to 16 November 2004. On Standard Form (SF) 600 dated 14 April 2004, it was documented that the applicant was seen by BH as part of a

Mental Status Evaluation (MSE) at the request of his Commander for an administrative evaluation (e.g., Drill Sergeant School, Recruiter School, Sniper School, or Administrative Separation) though the reason for request was not specified. A DA Form 4465 Patient Intake/Screening Record dated 15 April 2004 documented the applicant was screened [*Advisor's Note*: presumably by the Army Substance Abuse Program (ASAP) though it is not specified on the form] due to cannabis use. He was not enrolled in the program though was referred for prevention training (ADAPT). Limited in-service records were available in JLV from 03 June 2002 to 24 February 2004, none of which were BH related.

d. A review of JLV shows the applicant is not service-connected for any conditions. In JLV the applicant has the following conflict locations listed in his profile: OIF: 20 March 2003-14 April 2003. The applicant underwent a VA Compensation and Pension (C&P) examination on 07 February 2024 which documented that he met criteria for PTSD. There were two in-service stressors (and one post-military stressor) documented to be related to his diagnosis to include seeing his First Sergeant die during a convoy while deployed to Iraq and seeing a severely injured child who appeared lifeless following a bombing, noting that he was responsible for the bombs. Records in JLV indicate he completed a BH intake through the VA mental health clinic on 28 January 2015 with the chief complaint noted as depression. He endorsed the following symptoms: constant anxiety since return from Iraq, avoids crowds, temporarily kept a gun in his car after coming home from Iraq due to anxiety, frequent nightmares about Iraq, and recurrent distressing memories of Iraq. The applicant reported he has had difficulty maintaining employment since his discharge in 2005. He was started on Sertraline and referred for psychotherapy, specifically documented as 'CBT for PTSD symptoms.' The provider noted that the applicant screened positive for Major Depressive Disorder (MDD) in addition to PTSD and Generalized Anxiety Disorder (GAD), which the provider noted appeared to be related to his frequent flashbacks and intrusive combat-related memories. At the time of his psychotherapy intake on 11 March 2015, the provider diagnosed the applicant with Unspecified Trauma and Stressor-Related Disorder and Cannabis Dependence, In Early Remission, and noted that he would be evaluated to determine if he met full criteria for PTSD. A follow-up phone contact note stated that BH treatment was going to be paused due to the applicant's financial and transportation difficulties. He re-engaged in BH treatment through the VA on 22 June 2023 and the provider diagnosed him with PTSD. The applicant has continued BH treatment through the VA on-and-off since that date, with his last encounter occurring on 25 September 2024.

e. The applicant provided a letter from his non-VA/civilian BH provider from the Center City Philadelphia Vet Center dated 22 September 2022. The provider documented that the applicant had engaged in individual counseling at the Vet Center since 22 December 2021 and had attended 13 sessions. The provider further documented that the applicant continued to experience symptoms of PTSD that were

the result of his military service and noted ongoing symptoms of sleep disturbances, intrusive thoughts and memories, and hypervigilance.

f. The applicant is applying to the ABCMR requesting an upgrade of his UOTHC characterization of service to Under Honorable Conditions (general) and correction of his narrative reason for separation to reflect "Secretarial Authority." the applicant PTSD is related to his request. Review of the available in-service records were void of any BH diagnosis or treatment history aside from being referred to ADAPT (education only) for Cannabis Use. The applicant is not service-connected for any conditions through the VA. Post-discharge, the applicant has been diagnosed with PTSD by VA providers who have associated his condition with traumatic events he reported experiencing in Iraq. Although the applicant's AMHRR, ERB, and DD Form 214 do not indicate that he deployed to Iraq or any other hostile fire area during his period of service, there are some indicators of a history of deployment during his service to include permanent orders showing he was listed as one of the awardees for the Combat Infantryman Badge, his request for discharge in lieu of court-martial shows that he stated he deployed to Iraq for 7 months, and in his JLV profile an area of conflict was noted: OIF 20 March 2003-14 April 2003.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant has been diagnosed with PTSD which was attributed to his service in Iraq by VA BH providers since being discharged from the military.

(2) Did the condition exist or experience occur during military service? Yes, the applicant has been diagnosed with PTSD which was attributed to his service in Iraq by VA BH providers since being discharged from the military.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. Although the applicant's AMHRR, ERB, and DD Form 214 do not show a history of service to Iraq or a hostile fire area, there is supporting documentation available indicating that he was deployed (orders noting he was awarded the CIB, JLV profile noting an area of conflict OIF in 2003, and an assertion that he deployed to Iraq for 7 months in his request for discharge in lieu of court-martial in December 2004). Review of in-service records were void of any BH diagnosis or treatment history aside from a referral to ADAPT due to cannabis use. The applicant is not service-connected through the VA for any conditions. Since his discharge, the applicant has been diagnosed with PTSD, attributed to his service in Iraq, by VA BH providers. As there is an association between avoidance behaviors, going AWOL, and missing movement, there is a nexus between the misconduct that led to his discharge and his diagnosis of PTSD. As such, BH mitigation is supported.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The applicant was charged with being absent without leave from 30 July 2004 to 30 August 2004 and missing movement, punishable under the Uniform Code of Military Justice with a punitive discharge. After being charged, he consulted with counsel and voluntarily requested discharge in lieu of trial by court-martial. The Board majority found no error or injustice in the separation proceedings and designated characterization of service or narrative reason for separation. The Board majority noted the applicant's contention of post-traumatic stress disorder (PTSD); however, reviewed the medical advisor's review and determined by a preponderance of the evidence the characterization of service and narrative reason for separation the applicant received upon separation was not in error or unjust. The Board minority reviewed and concurred with the medical advisor's review finding the applicant's contention of PTSD mitigated his misconduct and determined based on a preponderance of the evidence his separation should be upgraded to honorable and the narrative reason for separation and corresponding separation codes amended to reflect Separation Authority.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, USC, Section 1552(b), provides that applications for correction of military records must be filed within three years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Title 10, USC, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

4. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. Chapter 10 stated a member who committed an offense or offenses for which the authorized punishment included a punitive discharge could, at any time after the charges have been preferred, submit a request for discharge for the good of the service in lieu of trial by court-martial. Although an honorable or general discharge was authorized, a discharge under other than honorable conditions was normally considered appropriate. At the time of the applicant's separation the regulation provided for the issuance of an UOTHC discharge.

b. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member'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.

c. A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

d. When a Soldier was to be discharged UOTHC, the separation authority would direct an immediate reduction to the lowest enlisted grade.

5. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) implements the specific authorities and reasons for separating Soldiers from active duty. It also prescribes when to enter SPD codes on the DD Form 214.

a. Paragraph 2-1 provides that 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 Department of Defense and the Military Services to assist in the collection and analysis of separation data. This analysis may, in turn, influence changes in separation policy. SPD codes are not intended to stigmatize an individual in any manner.

b. Table 2-3 provides the SPDs and narrative reasons for separation that are applicable to enlisted personnel. It shows, in part, SPD "KFS" is the appropriate code to assign to an enlisted Soldier who is voluntarily separated under the provisions of Army Regulation 635-200, Chapter 10, in lieu of trial by court-martial.

6. On 3 September 2014, the Secretary of Defense directed the Service DRBs and Service 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.

7. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to the Service DRBs and Service 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.

8. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness 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. BCM/NRs may grant clemency regardless of the type of court-martial. 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.

a. 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, BCM/NRs 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.

b. 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.

//NOTHING FOLLOWS//