

1. Applicant's Name: [REDACTED]**a. Application Date:** 18 July 2020**b. Date Received:** 20 July 2020**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant's Requests and Issues: The current characterization of service for the period under review is under other than honorable conditions. The applicant, through counsel, requests an upgrade to honorable and a narrative reason change.

The applicant seeks relief contending, in effect, while assigned at Fort Hood, the applicant was deployed to Iraq. While in Iraq, the applicant was exposed to numerous traumatic events, including receiving direct mortar fire while traveling in convoys and while inside a structure when it was hit with mortar fire. The applicant has tinnitus as a result of these incidents. The applicant lost multiple friends and fellow Soldiers during the war. While deployed, the applicant was allowed to return to the U.S. for two weeks of leave for the birth of the applicant's child. Nine days after the applicant returned to Iraq, the applicant's spouse was killed in a car accident, and the applicant's newborn child went to live with the maternal grandmother. After redeployment, the applicant was assigned to Fort Sam Houston, four hours away from where the child was living. The applicant was struggling with extreme stress and went to a psychiatrist once while at Fort Sam Houston. It was a bad experience and the applicant never returned. The next two years were a blur for the applicant. The applicant's military duty prevented the applicant from spending any significant time with the young child. The applicant received word the applicant might be returning to Fort Hood, which caused the applicant to feel dread, hate, anger, and anxiety. The applicant contemplated suicide and once placed a gun in the mouth with the intent to end the applicant's life.

The fear of having to deploy again and possibly leaving the applicant's child without a parent led to the applicant leaving the base one day, going to a friend's home, deliberately smoking marijuana, returning to the base, and requesting a drug test. The applicant tested positive and was later discharged with an other than honorable characterization. The applicant identifies as an alcoholic and states the applicant used alcohol to self-medicate and was likely intoxicated when deciding to do something as "stupid" as seeking out marijuana. The applicant has been to detox twice since leaving service and is sober. The applicant has been unable to obtain a service-connected disability since the Department of Veterans Affairs (VA) considers the applicant's conduct "willful." The applicant does receive some medical care from the VA. The applicant has been treated by a VA mental health professional who has confirmed a diagnosis of post-traumatic stress disorder (PTSD). The applicant is on regular medication for PTSD. The applicant's discharge was inequitable because service-related PTSD is a mitigating factor which was not considered in the applicant's discharge characterization. The applicant's discharge is inequitable in light of the applicant's otherwise faithful service. Equity, fairness, and the Hagel, Kurta, and Wilkie Memoranda demand the acts which caused the applicant's discharge are mitigated by the PTSD diagnosis and the discharge characterization be upgraded to honorable. Counsel further details the contentions in the Legal Brief and the applicant's Sworn Declaration submitted with the application.

b. Board Type and Decision: In a records review conducted on 8 May 2024, and by a 4-1 vote, the Board, based on the applicant's length of service, to include combat service, and the circumstances surrounding the discharge (Post-Traumatic Stress Disorder, Major Depressive Disorder, and Anxiety), determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to General, Under Honorable Conditions and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200. The Board also determined the narrative reason, SPD code, and RE code were proper and equitable and voted not to change them.

*Please see Section 9 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: In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / Under Other Than Honorable Conditions

b. Date of Discharge: 20 July 2005

c. Separation Facts:

(1) Date and Charges Preferred (DD Form 458, Charge Sheet): On 28 June 2005, the applicant was charged with:

Charge I: Violating Article 81, UCMJ, Specification: The applicant did on 14 May 2005, conspire with Private First Class (PFC) S. B. to commit an offense under the Uniform Code of Military Justice, to wit: Absent without leave, and in order to effect the object of the conspiracy the applicant without authority, aid and abet PFC S. B. to be absent from the unit from 14 to 16 May 2005.

Charge II: Violating Article 86, UCMJ, Specification: The applicant did on divers occasions between 28 February and 29 April 2005, without authority, fail to go at the time prescribed to the appointed place of duty.

Charge III: Violating Article 92, UCMJ, Specification: The applicant between 14 and 16 May 2005, violate a lawful general regulation, by wrongfully having a prohibited relationship with PFC S. B., an Initial Entry Training Soldier.

Charge IV: Violating Article 112a, UCMJ:

Specification 1: The applicant did on 3 April 2005, wrongfully use marijuana.

Specification 2: The applicant did on 17 April 2005, wrongfully use marijuana.

(2) Legal Consultation Date: 8 July 2005

(3) Basis for Separation: Pursuant to the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

(4) Recommended Characterization: Under Other Than Honorable Conditions

(5) Separation Decision Date / Characterization: 15 July 2005 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 1 November 2000 / 4 years / The AMHRR is void of any enlistment contract retaining the applicant on active duty after the initial enlistment period.

b. Age at Enlistment / Education / GT Score: 17 / GED / 107

c. Highest Grade Achieved / MOS / Total Service: E-4 / 92A10, Automated Logistics Specialist / 4 years, 8 months, 17 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea, SWA / Iraq (12 April 2004 – 20 September 2004)

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

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The Charge Sheet as described in previous paragraph 3c.

Commander's Report of Disciplinary or Administrative Action, 25 November 2002, reflects the applicant was charged, by civilian authorities, with drunken driving. Investigation revealed on 31 October 2002, a traffic stop was initiated because the applicant's vehicle did not display a license plate. The officer approached the applicant's vehicle and detected a strong odor of an alcoholic beverage emitting from the applicant. The applicant failed a series of sobriety tests and was apprehended. The applicant rendered a breath sample with the result of .087 blood alcohol content (BAC). The applicant appeared in civil court, was found guilty, and fined \$300.

Commander's Report of Disciplinary or Administrative Action, 23 March 2003, reflects the applicant was charged, by civilian authorities, with drunken driving; unlawful transport of a weapon; and a minor in possession of alcohol. Investigation revealed a traffic stop was initiated when the applicant failed to stop at a stop sign. The officer approached the applicant's vehicle and detected a strong odor of an alcoholic beverage emitting from the applicant. The applicant refused to take all but one of the field sobriety tests. The applicant was apprehended and invoked the right to the DWI statutory warning advice. The applicant appeared in civil court, was found guilty, and fined \$500.

Electronic Copy of DD Form 2624, 13 April 2005, reflects the applicant tested positive for THC 51 (marijuana), during a Command Directed (CO) urinalysis testing, conducted on 5 April 2005.

Army Substance Abuse Program (ASAP) Enrollment form, 19 April 2005, reflects the applicant was command-referred in the ASAP.

Criminal Investigation Division (CID) Report of Investigation - Initial Final, 28 April 2005, reflects an investigation established probable cause to believe the applicant committed the offense of Wrongful Use of a Controlled Substance when the applicant submitted a urine sample on 5 April 2005, during the conduct of a command directed urinalysis test, which subsequently tested

positive for Marijuana. The applicant was interviewed and admitted to using marijuana between 3 and 17 April 2005.

Two Personnel Action forms, reflect Private First Class S. B. duty status changed as follows:

From "Present for Duty (PDY)," to "Absent Without Leave (AWOL)," effective 14 May 2005; and

From "AWOL" to "PDY," effective 16 May 2005.

Military Police Report, 16 May 2005, reflects the applicant was apprehended for: fail to obey lawful order – fraternization under Article 92, UCMJ (off post) and accessory after the fact under Article 78, UCMJ (off post). Investigation revealed the applicant was allowing B., an advanced individual training Soldier, who was known by the applicant to be absent without leave, reside at the applicant's off-post apartment. The trainee was apprehended and returned to the unit. The applicant was escorted to the Military Police station, and advised of the legal rights, which the applicant invoked.

Numerous Developmental Counseling Forms, for breaking restriction; failing to obey the lawful order of a commissioned officer; failing to report to formation and duty; failing to keep chain of command informed; failing to obey lawful order of a noncommissioned officer; testing positive for marijuana on a urinalysis; failing to shave while in uniform; dereliction of duty; improper uniform for duty; and using excessive speed in privately owned vehicle.

i. Lost Time / Mode of Return: 3 days (AWOL, 14 May 2005 – 16 May 2005) / Apprehended by Military Authorities

j. Behavioral Health Condition(s):

(1) Applicant provided: Texas Health and Human Services Medical Release / Physician's Statement, 31 October 2019, reflecting the applicant was diagnosed with recurrent major depressive disorder; unable to work; and the disability was permanent.

Department of Veterans Affairs Progress Notes (various pages illegible), 9 July 2020, reflecting diagnoses: Major depressive disorder, recurrent, moderate; unspecified trauma or stressor related disorder; rule out PTSD; and bereavement (provisional). The VA, among the rated disabilities, rated the applicant 0 percent service-connected for PTSD.

(2) AMHRR Listed: Chronological Record of Medical Care, 25 April 2005, reflects the applicant was referred to Community Mental Health for a mental status evaluation because the applicant was having difficulty dealing with the death of the applicant's spouse, who was killed in an automobile accident while the applicant was on duty in Iraq. The applicant was showing a pattern of misconduct. The evaluation revealed the applicant was experiencing bereavement without complications and occupational problems.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 214; DD Form 293; Legal Brief; applicant's Sworn Declaration; VA medical records; other medical documents; PTSD Information documents; Hagel Memo; Kurta Memo; Wilkie Memo; and two third party character references.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has been to detox twice since leaving service and is now sober.

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 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.

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Paragraph 3-7c states 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.

(5) Chapter 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

(6) Paragraph 10-8a stipulates a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. (See chap 3, sec II.)

(7) Paragraph 10-8b stipulates Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

(8) Paragraph 10-10, Limited use evidence, effective 28 June 2021, states due diligence should be exercised to avoid including limited use evidence in a separation action under this chapter, but the inclusion of such evidence will not form the basis for a Soldier to challenge the separation or the characterization of service. If limited use evidence is included in the separation action, the requirement that an honorable discharge be given due to the introduction of limited use evidence does not apply to separations under this chapter. The separation authority will include a statement in the approval of separation under this chapter that the inclusion of any information in the separation packet, which may be considered limited use evidence, was excluded as evidence from and not considered or used against the Soldier on the issue of characterization in accordance with DoDI 1010.01 and AR 600-85.

e. 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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

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-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.

The applicant requests an upgrade to honorable 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.

The evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance.

The applicant's service record contains a DD Form 2624 (Specimen Custody Document for Drug Testing) that shows the urinalysis test was coded CO which indicates "Competence for Duty/Command Direct/Fitness for duty." The Limited Use Policy applies to this test basis, per AR 600-85. However, the evidence of record contains several sworn statements that indicate the applicant had wrongfully used marijuana. This would have given the unit commander probable cause to direct the urinalysis. In view of the foregoing, the CO code used on the DD Form 2624 was likely incorrect and should have been coded PO for "Probable Cause" instead of CO for "Competence for Duty." After careful review of the applicant's record this was a harmless error and the rights of the applicant were not prejudiced by the error on file in this case. The evidence in the record did not create a substantial doubt that the discharge would have been any different if the error had not been made.

After careful review of the case issue submitted by the analyst, the Office of The Judge Adjutant General (OTJAG) provided an informal opinion to the ARBA Legal Office advising that the Limited Use Policy does not apply to Chapter 10 cases. Moreover, OTJAG's opinion pre-dates the issuance of the most recent (June 2021) version of AR 635-200. The June 2021 version of

the regulation was the first version to expressly exclude the Limited Use Policy from being applied to Chapter 10 cases. (See para. 10-10, AR 635-200 (28 June 2021).) Consequently, in OTJAG's opinion, the Limited Use Policy currently is not, and never has been, applicable to Chapter 10 cases. Therefore, the Limited Use Policy does not apply to the applicant's case even though his request for discharge in lieu of trial by court-martial predates the June 2021 version of AR 635-200.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 10, AR 635-200, with an under other than honorable conditions discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "In Lieu of Trial by Court-Martial," and the separation code is "KFS." Army Regulation 635-8, Separation Processing and 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 to be entered under this regulation.

The applicant contends the discharge is inequitable because of the applicant's service-connected PTSD was not considered in the applicant's discharge characterization. The applicant provided several medical documents indicating the VA diagnosed the applicant with: Major depressive disorder, recurrent, moderate; unspecified trauma or stressor related disorder; rule out PTSD; and bereavement (provisional). The VA rated the applicant 0 percent service-connected for PTSD. The applicant's AMHRR reflects the applicant was referred to Community Mental Health for a mental status evaluation because the applicant was having difficulty dealing with the death of the applicant's spouse. The evaluation revealed the applicant was experiencing bereavement without complications and occupational problems. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a combat tour. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends being in detox twice since leaving military service and is now sober. 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.

The third-party statements provided with the application speak highly of the applicant. They all recognize the applicant's good military service and/or good conduct after leaving the Army.

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. 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: Major Depressive Disorder (MDD); Anxiety Disorder Not Otherwise Specified; Post-Traumatic Stress Disorder (0% Service Connected).

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the diagnoses of Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified and Post-Traumatic Stress Disorder were made during active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has several Behavioral Health conditions, Post-Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified, which mitigate some of the applicant's misconduct. As there is an association between these conditions, self-medication with alcohol and/or illicit drugs and avoidant behaviors, there is a nexus between the applicant's diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder and Anxiety Disorder Not Otherwise Specified and the applicant's two offenses of wrongful use of THC, the applicant's arrest for driving under the influence, the applicant's charge of minor possession of alcohol, the applicant's multiple Failure to Report and the applicant's incident of Absent Without Leave. These conditions do not, however, mitigate his conspiracy to commit Absent Without Leave with another soldier, aiding and abetting another soldier to go Absent Without Leave, wrongfully engaging in a prohibited relationship and transporting an illegal weapon as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

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

b. Response to Contention(s):

(1) The applicant contends the discharge is inequitable because of the applicant's service-connected PTSD was not considered in the applicant's discharge characterization. The Board determined that this contention was valid and voted to upgrade the characterization of service to General, Under Honorable Conditions. The applicant has several Behavioral Health conditions, Post-Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified, which mitigate some of the applicant's misconduct. As there is an association between these conditions, self-medication with alcohol and/or illicit drugs and avoidant behaviors, there is a nexus between the applicant's diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder and Anxiety Disorder Not Otherwise Specified and the applicant's two offenses of wrongful use of THC, the applicant's arrest for driving under the influence, the applicant's charge of minor possession of alcohol, the applicant's multiple Failure to Report and the applicant's incident of Absent Without Leave. These conditions do not, however, mitigate his conspiracy to commit Absent Without Leave with another soldier, aiding and abetting another soldier to go Absent Without Leave, wrongfully engaging in a prohibited relationship and transporting an illegal weapon as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's several Behavioral Health

conditions, Post-Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified, which mitigate some of the applicant's misconduct. As there is an association between these conditions, self-medication with alcohol and/or illicit drugs and avoidant behaviors, there is a nexus between the applicant's diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder and Anxiety Disorder Not Otherwise Specified and the applicant's two offenses of wrongful use of THC, the applicant's arrest for driving under the influence, the applicant's charge of minor possession of alcohol, the applicant's multiple Failure to Report and the applicant's incident of Absent Without Leave. These conditions do not, however, mitigate his conspiracy to commit Absent Without Leave with another soldier, aiding and abetting another soldier to go Absent Without Leave, wrongfully engaging in a prohibited relationship and transporting an illegal weapon as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

(3) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's several Behavioral Health conditions, Post-Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified, which mitigate some of the applicant's misconduct. As there is an association between these conditions, self-medication with alcohol and/or illicit drugs and avoidant behaviors, there is a nexus between the applicant's diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder and Anxiety Disorder Not Otherwise Specified and the applicant's two offenses of wrongful use of THC, the applicant's arrest for driving under the influence, the applicant's charge of minor possession of alcohol, the applicant's multiple Failure to Report and the applicant's incident of Absent Without Leave. These conditions do not, however, mitigate his conspiracy to commit Absent Without Leave with another soldier, aiding and abetting another soldier to go Absent Without Leave, wrongfully engaging in a prohibited relationship and transporting an illegal weapon as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

(4) The applicant contends being in detox twice since leaving military service and is now sober. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's several Behavioral Health conditions, Post-Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified, which mitigate some of the applicant's misconduct. As there is an association between these conditions, self-medication with alcohol and/or illicit drugs and avoidant behaviors, there is a nexus between the applicant's diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder and Anxiety Disorder Not Otherwise Specified and the applicant's two offenses of wrongful use of THC, the applicant's arrest for driving under the influence, the applicant's charge of minor possession of alcohol, the applicant's multiple Failure to Report and the applicant's incident of Absent Without Leave. These conditions do not, however, mitigate his conspiracy to commit Absent Without Leave with another soldier, aiding and abetting another soldier to go Absent Without Leave, wrongfully engaging in a prohibited relationship and transporting an illegal weapon as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

(5) The third-party statements provided with the application speak highly of the applicant. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's several Behavioral Health conditions, Post-Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified, which mitigate some of the applicant's misconduct. As there is an association between these conditions, self-medication with alcohol and/or illicit drugs and avoidant behaviors, there is a nexus between the applicant's diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder and Anxiety Disorder Not Otherwise

Specified and the applicant's two offenses of wrongful use of THC, the applicant's arrest for driving under the influence, the applicant's charge of minor possession of alcohol, the applicant's multiple Failure to Report and the applicant's incident of Absent Without Leave. These conditions do not, however, mitigate his conspiracy to commit Absent Without Leave with another soldier, aiding and abetting another soldier to go Absent Without Leave, wrongfully engaging in a prohibited relationship and transporting an illegal weapon as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

(6) The Board determined the Board, based on the applicant's length of service, to include combat service, and the circumstances surrounding the discharge (Post-Traumatic Stress Disorder, Major Depressive Disorder, and Anxiety), determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to General, Under Honorable Conditions and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200. The Board also determined the narrative reason, SPD code, and RE code were proper and equitable and voted not to change them.

c. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's the applicant's several Behavioral Health conditions, Post-Traumatic Stress Disorder, Major Depressive Disorder, Anxiety Disorder Not Otherwise Specified, which mitigate some of the applicant's misconduct. As there is an association between these conditions, self-medication with alcohol and/or illicit drugs and avoidant behaviors, there is a nexus between the applicant's diagnoses of Post-Traumatic Stress Disorder, Major Depressive Disorder and Anxiety Disorder Not Otherwise Specified and the applicant's two offenses of wrongful use of THC, the applicant's arrest for driving under the influence, the applicant's charge of minor possession of alcohol, the applicant's multiple Failure to Report and the applicant's incident of Absent Without Leave. These conditions do not, however, mitigate his conspiracy to commit Absent Without Leave with another soldier, aiding and abetting another soldier to go Absent Without Leave, wrongfully engaging in a prohibited relationship and transporting an illegal weapon as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right. Thus, the prior characterization is no longer appropriate.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code due to the applicant's behavior health condition.

(3) The RE code will not change due to the applicant's behavior health condition.

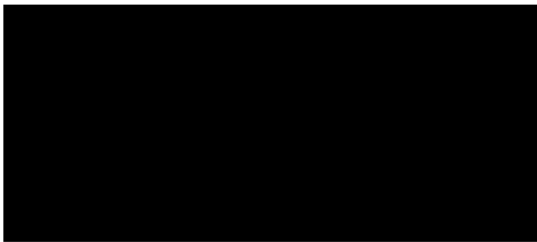
10. BOARD ACTION DIRECTED:

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

Authenticating Official:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20200007026



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