

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant's Requests and Issues: The current characterization of service for the period under review is bad conduct. The applicant requests an upgrade to general characterization of service.

The applicant seeks relief contending, in effect, after serving 18 years in the Army, the applicant received a bad conduct discharge. On or about 19 December 2009, the applicant had a second court-martial for a positive urinalysis. They were reduced from E-7 to E-1 in less than one year, was sentenced to 20 days in a military jail as punishment. The applicant does regret putting their self in this situation. They had a clean military record and was a stellar Soldier until this point. The applicant had severe depression issues and PTSD and turned to illegal drugs thinking it was the answer, but it led to a downhill battle. Since being discharged, the applicant has found what was needed to help them through their struggles and it was not illegal drugs. The applicant has been taking prescribed medicine for depression and as for the addiction, they have learned to get a closer relationship with God, and they attend AA/NA meetings. The applicant has put it behind them and has close to two years of sobriety and is very proud of it. The applicant is battling with a disease called addiction and has learned to cope with it and keep it under control. The applicant had 17 to 18 years in the Army, with no problems. They had many successful tours and received many accolades for their success. The applicant has joined a good church and has a close relationship with God, has a home group which they are proud of and a different social group.

b. Board Type and Decision: In a records review conducted on 22 July 2025, and by a 5-0 vote, after carefully examining the applicant's record of service during the period of enlistment under review and all other evidence presented, the Board determined that clemency is warranted based on compassion for the applicant's circumstances as well as the applicant's length and quality of service, including combat service. Accordingly, the Board voted to grant relief by upgrading the applicant's characterization of service to [General, Under Honorable Conditions.

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: Court-Martial (Other) / AR 635-200, Chapter 3 / JJD / RE-4 / Bad Conduct

b. Date of Discharge: 16 February 2011**c. Separation Facts:**

(1) Pursuant to Special Court-Martial Empowered to Adjudge a Bad-Conduct Discharge: As announced by Special Court-Martial Order Number 1, 25 May 2010, on 21 January 2010, the applicant was found guilty of the following: The Charge, in violation of Article 112a, UCMJ. The Specification: On or about 8 November 2009 and 13 November 2009, the applicant wrongfully used cocaine.

(2) Adjudged Sentence: Reduction to E-1; to be confined for 20 days, and to be discharged from the service with a Bad Conduct discharge.

(3) Date / Sentence Approved: 25 May 2010 / The sentence was approved and, except for the part of the sentence extending to the Bad-Conduct Discharge, would be executed.

(4) Appellate Reviews: The Record of Trial was forwarded to The Judge Advocate General of The Army for review by the Court of Military Review. The United States Army Court of Criminal Appeals affirmed the approved findings of guilty and the sentence.

(5) Date Sentence of BCD Ordered Executed: 3 December 2010

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 8 August 2002 / indefinite

b. Age at Enlistment / Education / GT Score: 36 / Associate Degree / 116

c. Highest Grade Achieved / MOS / Total Service: E-7 / 92G4X, Food Service Operations Specialist / 19 years, 9 months, 24 days

d. Prior Service / Characterizations: 8 April 1991 – 5 December 1993 / HD
6 December 1993 – 27 April 1995 / HD
28 April 1995 – 25 March 1996 / HD
26 March 1996 – 8 May 1997 / HD
9 May 1997 – 10 May 2000 / HD
11 May 2000 – 7 August 2002 / HD

e. Overseas Service / Combat Service: Bosnia, Germany, Korea / None

f. Awards and Decorations: MSM-2, ARCOM, AAM-6, ASUA, AGCM-5, NDSM, AFEM, GWOTSM, KDSM, AFSM, NCOPDR-3, ASR, OSR, NATOMDL

g. Performance Ratings: February 2002 – March 2004 / Among the Best
April 2004 – January 2006 / Among the Best
February 2006 – 14 December 2007 / Among the Best

h. Disciplinary Action(s) / Evidentiary Record: Electronic Copy of Specimen Custody Document – Drug Testing, 12 January 2009, reflects the applicant tested positive for COC 242 (cocaine) during an Inspection Other (IO) urinalysis testing conducted on 6 January 2009.

Record of Trial by Summary Court-Martial, 9 April 2009, reflects the applicant was charged with:

Charge I: Violation of Article 107, UCMJ: The Specification: False Official Statement.

Charge II: Violation of Article 112a, UCMJ: The Specification: Wrongful Use – Cocaine.

The sentence adjudged: Reduction to Staff Sergeant (E-6) and Forfeiture of \$2,559.00.

General Officer Memorandum for Record (GOMOR), 18 May 2009, reflects the applicant was reprimanded for use of illegal drugs as well as complete lack of integrity. On or about 6 October 2008, the applicant made a false report to the Fort Lee Military Police which their car was stolen and was abducted at gunpoint. The applicant later admitted to being under the influence of crack cocaine at the time. Pursuant to an offer to plead guilty the applicant submitted, they were tried by Summary Court-Martial on 9 April 2009. Under oath, the applicant told the Summary Court-Martial Officer they had not used drugs since October 2008. The applicant tested positive for cocaine on 12 December 2008 and 6 January 2009.

Electronic Copy of Specimen Custody Document – Drug Testing, 6 June 2009, reflects the applicant tested positive for COC 12441 (cocaine) during an Inspection Unit (IU) urinalysis testing conducted on 8 June 2009.

FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 7 July 2009, between on or about 4 June 2009 and 8 June 2009, wrongfully used cocaine. The punishment consisted of a reduction to E-5, forfeiture of \$1,414 pay per month for one-month, extra duty for 45 days; and written reprimand.

Electronic Copy of Specimen Custody Document – Drug Testing, 24 July 2009, reflects the applicant tested positive for COC 625 (cocaine) during an Inspection Other (IO) urinalysis testing conducted on 15 July 2009.

FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 3 September 2009, for wrongfully using cocaine (between on or about 10 July and 15 July 2009). The punishment consisted of a reduction to E-4, forfeiture of \$1109 pay, both suspended; and extra duty for 45 days.

Two Personnel Action forms reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Confined by Military Authorities (CMA), effective 21 January 2010; and,
From CMA to PDY, effective 6 February 2010.

Two Developmental Counseling Forms for wrongful use of controlled substance x2.

SCMO Number 1, 25 May 2010, as described in previous paragraph 3c(1).

SCMO Number 48, 3 December 2010, ordered the Bad Conduct Discharge executed.

i. Lost Time / Mode of Return: 15 days (CMA, 21 January 2010 – 5 February 2010) / Released from Confinement

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

The ARBA's medical advisor reviewed DoD and VA medical records, including documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; self-authored statement; certificate; SCMO Number 48; Certificate of Release or Discharge from Active Duty.

6. POST SERVICE ACCOMPLISHMENTS: The applicant takes prescription drugs for depression and has a closer relationship with God, they joined church and is in a home group and has a different social group. They attend AA/NA meetings and has nearly two years of sobriety.

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), 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.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization.

(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) Paragraph 3-11 states a Soldier will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed. Questions concerning the finality of appellate review should be referred to the servicing SJA.

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 "JJD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 3, Court-Martial (other).

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. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's Army Military Human Resource Record (AMHRR) indicates the applicant was adjudged guilty by a court-martial and the sentence was approved by the convening authority. Court-martial convictions stand as adjudged or modified by appeal through the judicial process.

The Board is empowered to change the discharge only if clemency is determined to be appropriate. Clemency is an act of mercy, or instance of leniency, to moderate the severity of the punishment imposed.

The applicant contends good service, they served many successful tours and received many accolades for their success. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends suffering from depression and PTSD causing them to turn to illegal drugs. The applicant did not submit evidence other than their statement to support the contention the discharge resulted from any medical condition. The applicant's AMHRR includes no documentation of a PTSD diagnosis.

Since the discharge, the applicant takes prescription drugs for the depression and has a closer relationship with God, they joined church and is in a home group and has a different social group. They attend AA/NA meetings and has nearly two years of sobriety. 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. 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 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: GAD, Adjustment Disorder w/Anxiety and Depressed Mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found the applicant was diagnosed with GAD and Adjustment Disorder w/Anxiety and Depressed Mood during service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board determined, based on the Board Medical Advisor's opine, that the applicant's behavioral health conditions do not mitigate the discharge. The applicant has in-service BH conditions of GAD, and Adjustment Disorder w/Anxiety and Depressed Mood, and a post-service diagnosis of Adjustment Disorder w/Anxiety and Depressed Mood. While GAD would typically mitigate substance use, given the nexus between GAD and the use of substances to self-medicate, the misconduct is not mitigated by the BH condition in the current case. Evidence indicates the applicant's BH conditions, in this case, developed secondary to the applicant having to deal with the consequences of the misconduct, and were not contributing factors to the misconduct.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Generalized Anxiety Disorder and Adjustment Disorder with Anxiety and Depressed Mood outweighed the applicant's medically unmitigated false official statement and illegal substance abuse offenses.

b. Response to Contention(s):

(1) The applicant contends good service, serving many successful tours and receiving many accolades for their success. The Board considered the applicant's 19 years of service, including overseas tours and numerous awards received, and determined that they applicant's record warranted a change to general characterization of service.

(2) The applicant contends suffering from depression and PTSD, causing them to turn to illegal drugs. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Generalized Anxiety Disorder and Adjustment Disorder with Anxiety and Depressed Mood outweighed the applicant's medically unmitigated false official statement and illegal substance abuse offenses. The Board found no evidence to support the assertion that the applicant has Post Traumatic Stress Disorder, therefore, the condition was not considered for potential mitigation.

(3) Since the discharge, the applicant takes prescription drugs for depression and has a closer relationship with God, they joined church and is in a home group and has a different social group. They attend AA/NA meetings and has nearly two years of sobriety. The Board considered the applicant's post-service accomplishments and credited them in the decision to upgrade the applicant's discharge.

c. The Board determined that clemency is warranted based on compassion for the applicant's circumstances as well as the applicant's length and quality of service, including combat service. Accordingly, the Board voted to grant relief by upgrading the applicant's characterization of service to [General, Under Honorable Conditions.

d. Rationale for Decision:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20210000063**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's 19 years of service, including overseas tours and numerous awards received partially outweighed the applicant's false official statement and illegal substance abuse offenses. 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 under the same pretexts, and the reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: 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: No Change

Authenticating Official:

7/31/2025

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