

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 under other than honorable conditions. The applicant requests an upgrade to general characterization of service.

The applicant seeks relief contending, in effect, an upgrade will improve their civilian life. The applicant contends this was an isolated occurrence and had honorable service before the incident.

b. **Board Type and Decision:** In a records review conducted on 1 July 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's quality of service, to include combat service, partially outweighing the applicant's AWOL offense. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General. The Board 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:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 24 July 2008

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 4 June 2008

(2) **Basis for Separation:** The applicant was informed of the following reasons: Absence Without Leave (AWOL) from 22 February 2007 until 4 March 2008.

(3) **Recommended Characterization:** Under Other Than Honorable Conditions

(4) **Legal Consultation Date:** In an undated memorandum.

(5) **Administrative Separation Board:** On 1 May 2008, the applicant unconditionally waived consideration of the case before an administrative separation board as part of an Offer to Plead Guilty in a Summary Court-Martial proceedings.

(6) **Separation Decision Date / Characterization:** 16 July 2008 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 29 September 2005 / 3 years, 22 weeks
- b. **Age at Enlistment / Education / GT Score:** 29 / High School Graduate / 105
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 11B1P, Infantryman / 1 year, 8 months, 24 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Iraq (29 November 2006 – 15 November 2007)
- f. **Awards and Decorations:** ICM, ARCOM, NDSM, GWOTSM, ASR, OSR, CIB
- g. **Performance Ratings:** NA

h. Disciplinary Action(s) / Evidentiary Record: Four Personnel Action forms reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 22 February 2007;
From AWOL to Dropped From Rolls (DFR), effective 26 March 2007;
From DFR to PDY, effective 4 March 2008;
From PDY to Confined by Civil Authorities (CCA), effective 9 May 2008.

Charge Sheet, 28 April 2008, reflects the applicant was charged with: Violation of the UCMJ, Article 86. Specification 1: On or about 22 February 2007, without authority, absent themselves from their unit, and did remain until on or about 4 March 2008.

Offer to Plead Guilty, 1 May 2008, reflects the applicant offering to plead guilty to the charge and its specification, and in pertinent part, to waive the rights to an administrative separation board with the understanding of being discharged with the conditions of a UOTH, and in exchange, to have the charges referred to a Summary Court-Martial, and understanding the rights, agreed to move forward with the Summary Court-Martial. The Offer was accepted on 2 May 2008.

Memorandum For Summary Court-Martial, 9 May 2008, reflects the applicant describing and explaining the reasons on why they committed the misconduct.

Report of Result of Trial reflects the applicant was tried in a Summary Court-Martial on 9 May 2008. The applicant was charged with one specification. The summary of offenses, pleas, and findings: Violation of Article 86, AWOL: On 9 May 2008; guilty, consistent with the plea. Sentence: Reduction to E-1 and confinement for 30 days.

- i. **Lost Time / Mode of Return:** 1 year, 4 months, 9 days:

AWOL, 22 February 2007 – 4 March 2008 / Surrendered to Military Authorities
CMA, 9 May 2008 – 1 June 2008 / 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: Recommendation for Award; Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty; Permanent Orders 212-027; Permanent Orders 68-3049; ARCOM Certificate.

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

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 (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 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) 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.

(4) 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.

(5) 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.

(6) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate

a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(7) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(8) Paragraph 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

f. Army Regulation 601-210, (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

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 was notified of the intent to discharge on 4 June 2008 under the provisions of AR 635-200, Paragraph 14-12c Misconduct (Serious Offense) for AWOL from 22 February 2007 to 4 March 2008. The recommended characterization of discharge was under other than honorable conditions. The applicant consulted with counsel and pled guilty of all charges brought against them on 1 May 2008 after receiving a charge sheet on 28 April 2008. The applicant also waived a administrative separation board and requested the case go through a Summary Court-Martial. The applicant was not represented by counsel during the hearing. The trial results reflected guilty findings, consistent with the plea. The separation authority directed a

under other than honorable conditions service discharge. The applicant was discharged on 24 July 2008.

The applicant contends the event leading to the discharge from the Army was an isolated incident. The applicant did not submit evidence other than their statement to support the contention. Army Regulation 635-200, paragraph 3-5 in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends good service, including a combat tour. The applicant submitted a copy of an award recommendation, permanent orders and an ARCOM Certificate as evidence of the good service prior to the misconduct. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **No**. The Board reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that a review of the available information reflects the applicant does not have a BH condition that mitigates his misconduct. While the applicant's records contain two ASAP engagements, neither encounter reflected a diagnosis and there was insufficient information to infer a diagnosis. However, even if it were possible to infer the substance related disorder, a substance-related disorder in absence of a non-substance related BH diagnosis is not afforded relief under liberal guidance. Also, although the applicant reported, during his MSE, that the applicant experienced periods of depression, there is no evidence the applicant ever met criteria for a depressive disorder and the MSE examiner did not find sufficient evidence to render a BH diagnosis.

(2) Did the condition exist or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

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

b. Response to Contention(s):

(1) The applicant contends good service, including a combat tour. The Board considered the applicants service record and credited the applicant's combat in Iraq and numerous awards received in the decision to upgrade the applicant's discharge.

(2) The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

(3) The applicant contends the event leading to the discharge from the Army was an isolated incident. The Board considered the applicants service record and credited the

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applicant's combat in Iraq and numerous awards received in the decision to upgrade the applicant's discharge.

c. The Board determined that the characterization of service was inequitable based on the applicant's quality of service, to include combat service, partially outweighing the applicant's AWOL offense. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them:

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to General because the applicant's quality of service, to include combat service, partially outweighed the applicant's AWOL offense. 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, as the reason the applicant was discharged was both proper and equitable.

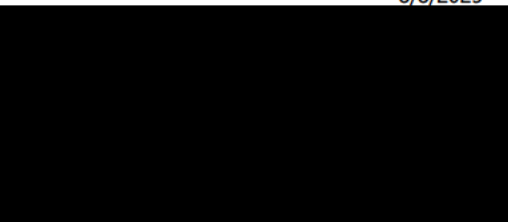
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214:** 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:

8/8/2025



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