

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, suffering from post-traumatic stress disorder (PTSD) and anxiety. There are occasions when the applicant loses consciousness and cannot recall their behavior, which can occasionally be aggressive. The applicant was at a bar after returning from Afghanistan and saw a civilian causing trouble by slapping people. The applicant repeatedly asked the person to stop, and after the civilian struck the applicant a few times, the applicant blacked out and badly beat the civilian. The applicant spent five months in jail at Fort Lewis and is genuinely sorry. The applicant desires an upgrade so they can receive VA benefits.

- b. **Board Type and Decision:** In a records review conducted on 8 May 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder, Anxiety, and Mood Disorder 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:** Court-Martial (Other) / AR 635-200, Chapter 3 / JJD / RE-4 / Under Other Than Honorable Conditions
- b. **Date of Discharge:** 17 September 2010
- c. **Separation Facts:**

(1) Pursuant to Special Court-Martial Empowered to Adjudge a Bad-Conduct Discharge: As announced by Special Court-Martial Order Number 144, 15 October 2009, on 27 August 2009, the applicant was found guilty of The Charge: in violation of Article 85, and The Specification: On or about 23 April 2009, with intent to avoid hazardous duty namely operations in support of Operation Enduring Freedom, quit their unit, to wit: CJTF-Phoenix, located at FOB Walton, Kandahar, Afghanistan and did remain so absent in desertion until on or about 15 June 2009. Plea: Guilty. Finding: Guilty. The applicant was found not guilty of Article 85, UCMJ, but guilty of the lesser included offense of The Charge in violation of Article 86, UCMJ, The Specification: On or about 23 April 2009, without authority absent themselves, from their unit, to wit: CJTF-Phoenix, located at Forward Operating Base Walton, Kandahar, Afghanistan, and did remain absent until, on or about 15 June 2009. Plea: Guilty. Finding: Guilty.

(2) Adjudged Sentence: Reduction to E-1; to be confined for 10 months, and forfeiture of \$933 pay per month for 10 months, and to be discharged from the service with a Bad Conduct discharge.

(3) Date / Sentence Approved: 15 October 2009 / Only so much of the sentence, a reduction E-1, confinement for six months, forfeiture of \$933 pay per month for 10 months, and the bad conduct discharge was approved and, except for the bad conduct discharge would be executed. The applicant was credited with 20 days of confinement towards the sentence to confinement.

(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: 9 June 2010

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 15 October 2008 / 384 days (OAD) / 27 August 2009 / 730 days (UCMJ Processing)

b. Age at Enlistment / Education / GT Score: 21 / GED / 101

c. Highest Grade Achieved / MOS / Total Service: E-6 / 11B3O, Infantryman / 2 years, 2 months, 18 days

d. Prior Service / Characterizations: ARNG, 6 March 2007 – 14 October 2008 / NA
IADT, 13 May 2008 – 29 August 2008 / HD
(Concurrent Service)

e. Overseas Service / Combat Service: SWA / Iraq (15 October 2008 – 22 April 2009) / It appears the applicant's combat service in Iraq is incorrect in block 18 remarks. The applicant's statement and Special Court Marial Order 144, reflects the applicant's combat service was in Afghanistan.

f. Awards and Decorations: NDSM, GWOTSM, ASR

g. Performance Ratings: NIF

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

FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 24 March 2009, for wrongfully consuming alcohol on or about 2 March 2009. The punishment consisted of forfeiture of \$100, and extra duty for 30 days.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 23 April 2009; and From AWOL to Dropped From Rolls (DFR), effective 23 May 2009.

i. Lost Time / Mode of Return: 180 days:

AWOL, 23 April 2009 – 15 June 2009 / Apprehended by Civil Authorities
CMA, 27 August 2009 – 1 January 2010 / Released from Confinement

j. Behavioral Health Condition(s):

(1) Applicant provided: Progress notes, printed on 24 October 2011, requesting to be seen for PTSD.

(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: Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge; Progress notes; SCM Order 144.

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), 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.

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 waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes: RE-4 Applies to: Person separated from last period of service with a nonwaivable 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 suffering from PTSD and anxiety. The applicant provided Progress notes, printed on 24 October 2011, requesting to be seen for PTSD. The AMHRR is void of a mental status evaluation.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local Department of Veterans Affairs office for further assistance.

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: Adjustment Disorder, PTSD, Anxiety, Mood Disorder NOS.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found evidence of in service BH conditions to include an Adjustment Disorder, PTSD, Anxiety, and Mood Disorder NOS.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the Board Medical Advisor's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD, Anxiety, Mood Disorder NOS, and avoidance, the AWOL that led to the applicant's separation is mitigated. The applicant self-reported additional misconduct of assault resulting in the victim being severely injured. The applicant's description of the assault suggests motivation, choice, and rationalization that is uncharacteristic of a PTSD flashback and there is no natural sequela between an Adjustment Disorder, Anxiety, or Mood Disorder NOS and assault. The applicant's self-reported assault is not mitigated by any of the BH conditions.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Post Traumatic Stress Disorder, Anxiety, and Mood Disorder outweighed the applicant's AWOL offense. The Board found that the applicant's medically unmitigated assault offense, although not part of the basis of separation, was of a severity to fall below that level of meritorious service warranted for an upgrade to Honorable discharge.

b. Response to Contention(s):

(1) The applicant contends suffering from PTSD and anxiety. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Anxiety, and Mood Disorder outweighed the applicant's AWOL offense. The Board found that the applicant's medically unmitigated assault offense, although not part of the basis of separation, was of a severity to fall below that level of meritorious service warranted for an upgrade to Honorable discharge.

(2) The applicant contends an upgrade of the discharge would allow veterans benefits. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

c. The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder, Anxiety, and Mood Disorder 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 Honorable because the applicant's Post Traumatic Stress Disorder, Anxiety, and Mood Disorder outweighed the applicant's AWOL offense. The Board found that the applicant's medically unmitigated assault offense, although not part of the basis of separation, was of a severity to fall below that level of meritorious service warranted for an upgrade to Honorable discharge.

(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.

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(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:

7/2/2025



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