

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**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 requests an upgrade to General.

The applicant seeks relief contending, in effect, was suffering from PTSD, and one of the symptoms of this condition could have been the reason for using drugs, and the effect of the drugs caused the applicant to steal the PlayStation. The applicant was not in their right mind and was suffering from PTSD. The applicant was diagnosed with this in the service; however, they did not receive proper treatment and should have been afforded medical treatment and counseling before being booted out of the Army. They signed paperwork stating they understood and agreed to this type of discharge. The applicant was not in the right mental capacity to make the assumption. The applicant was diagnosed with PTSD within three months post-discharge and is presently in treatment for PTSD and can now see more clearly through the assistance of inpatient counseling and substance abuse.

**b. Board Type and Decision:** In a records review conducted on 3 April 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, Adjustment Disorder, Anxiety Disorder, Obsessive Compulsive Disorder outweighing the applicant's offenses AWOL and illegal substance abuse. The Board found that the applicant's length and quality of service, to include combat service in Iraq, partially outweighed the applicant's medically unmitigated offenses of larceny, unlawfully entering a barracks room with the intent to commit larceny and receiving stolen property. 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 **Board Discussion and Determination** section 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:** 17 April 2009**c. Separation Facts:**

**(1) Date and Charges Preferred (DD Form 458, Charge Sheet):** On 8 September, 3 and 4 November, and 18 February 2009, the applicant was charged with:

Charge I: Violating Article 112a, UCMJ. The Specification: On or about 15 May 2008, wrongfully possess heroin.

Charge II: Violating Article 130, UCMJ. The Specification: On or about 13 August 2008, unlawfully enter a barracks room, the property of the United States Government, with intent to commit a criminal offense, to wit: larceny, therein.

Charge III: Violating Article 121, UCMJ:

Specification 1: On or about 13 August 2008, steal a motor vehicle, the property of SPC P. D. of a value of greater than \$500.

Specification 2: On or about 13 August 2008, steal a cellular telephone, the property of SPC P. D., of a value of less than \$500.

Additional Charge I: Violating Article 86, UCMJ. The Specification: On or about 17 September 2008, without authority, absent oneself from the unit and did remain so absent until on or about 14 October 2008.

Additional Charge II: Violating Article 112a, UCMJ:

Specification 1: Between on or about 2 August 2008 and on or about 1 September 2008, wrongfully use Marijuana.

Specification 2: Between on or about 30 August 2008 and on or about 1 September 2008, wrongfully use Heroin.

Specification 3: Between on or about 23 August 2008 and on or about 1 September 2008, wrongfully use Cocaine.

Additional Charge III: Violating Article 121, UCMJ:

Specification 1: On or about 14 August 2008, steal a television of a value of more than \$500, the property of SPC C. A. T.

Specification 2: On or about 14 August 2008, steal a guitar, of a value of less than \$500, the property of SPC C. A. T.

Additional Charge IV: Violating Article 130, UCMJ. The Specification: On or about 14 August 2008, unlawfully enter a barracks room, the property of the United States Government, with intent to commit a criminal offense, to wit: larceny, therein.

Additional Charge V: Violating Article 134, UCMJ. The Specification: On or about 14 August 2008, wrongfully receive a guitar, of a value of less than \$500, the property of C. A. T., which property as the applicant then knew, had been stolen.

**(2) Legal Consultation Date:** 3 April 2009

**(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:** 7 April 2009 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 1 November 2004 / 3 years / The applicant was retained on active duty beyond the scheduled release date for continued medical care. The applicant was not medically fit for retention or separation and was given a new release date of 31 October 2008.

**b. Age at Enlistment / Education / GT Score:** 22 / High School Graduate / 114

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92R1P, Parachute Rigger / 6 years, 4 months, 12 days

**d. Prior Service / Characterizations:** RA, 16 May 2002 – 15 May 2004 / HD  
USARCG, 16 May 2004 – 31 October 2004 / NA

**e. Overseas Service / Combat Service:** Korea, SWA / Iraq (23 April 2005 – 22 April 2006)

**f. Awards and Decorations:** ARCOM, NDSM, GWOTSM, KDSM, ICM-CS, ASR, OSR, CAB

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 22 February 2008, on or about 5 December 2007, without authority, fail to go at the time prescribed to the appointed place of duty; on or about 13 December 2007, steal an NBC Mask military property, of a value of less than \$500 the property of the U.S. Army; and on or about 16 August 2007, steal a 4 GB Apple IPOD Nano, of a value of about \$149, the property of PFC C. R. The punishment consisted of a reduction to E-2, forfeiture of \$751 pay per month for two months, and extra duty and restriction for 45 days.

CG Record of Proceedings under Article 15, Uniform Code of Military Justice, 7 August 2008, on or about 17 July 2008, without authority, failed to go at the time prescribed to the appointed place of duty; and on or about 15 July 2008, without authority, failed to go to the appointed place of duty. The punishment consisted of a reduction to E-1, forfeiture of \$314 pay for one month, and extra duty and restriction for 14 days.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 17 September 2008;

From AWOL to PDY, effective 14 October 2008;

From PDY to Pre-Trial Confinement, effective 15 October 2008; and,

From Pre-Trial Confinement to PDY, effective 8 April 2009.

GCMO Number 7, 1 May 2009 reflects the applicant was arraigned on 15 January 2009, the proceedings were terminated by the Convening Authority. The charges and their specification were withdrawn on 7 April 2009.

Charge Sheet as previously described in paragraph 3c(1).

**i. Lost Time / Mode of Return:** 200 days:

AWOL, 17 September 2008 – 13 October 2008 / NIF

Pre-Trial Confinement, 15 October 2008 – 7 April 2009 / Released from Confinement

**j. Behavioral Health Condition(s):**

**(1) Applicant provided:** Health Record, 17 January 2007, reflects the following problems: Adjustment Disorder, Adjustment Disorder with anxious mood, anxiety disorder NOS, Adjustment disorder with anxiety and psychosocial and environmental problems.

VA Verified Svc Data Printout, undated, reflects the applicant was granted 30 percent service-connected disability for 9411 Post-Traumatic Stress Disorder.

VA Problem Lists, 10 July 2012, reflects the applicant was diagnosed with 309.81 Post-Traumatic Stress Disorder.

**(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 Correction of Military Record; two Certificates of Release or Discharge from Active Duty; VA Verified Svc Data Printout; VA Problem List; Health Record; VA Form 10-7131.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant is in treatment for PTSD and can now see more clearly through the assistance of inpatient PTSD and substance abuse counseling.

**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 3-7a 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.)

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. 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. In consultation with legal counsel, the applicant 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 contends because they were suffering from PTSD, one of the symptoms of the condition could have been the reason for using drugs and the effect of the drugs, caused the applicant to steal the PlayStation. The applicant was diagnosed with PTSD while in service; however, they did not receive proper treatment and should have been afforded medical treatment and counseling before being booted out of the Army. The applicant provided a Health Record, 17 January 2007, which reflects the following problems: Adjustment Disorder, Adjustment Disorder with anxious mood, anxiety disorder NOS, Adjustment disorder with anxiety, and psychosocial and environmental problems. VA Verified Svc Data Printout, undated, reflects the applicant was granted 30 percent service-connected disability for 9411 Post-Traumatic Stress Disorder. VA Problem Lists, 10 July 2012, reflects the applicant was diagnosed with 309.81 Post-Traumatic Stress Disorder. The applicant's AMHRR includes no documentation of PTSD diagnosis. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant is in treatment for PTSD and can now see more clearly through the assistance of inpatient counseling and substance abuse. 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: Adjustment Disorder, PTSD, Anxiety Disorder NOS, Obsessive Compulsive Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that the applicant was diagnosed in service with an Adjustment Disorder, PTSD, Anxiety Disorder NOS, and Obsessive Compulsive Disorder and the VA has service-connected the PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board determined, based on the Board Medical Advisor's opine, that the applicant's behavioral health conditions partially mitigate the discharge. Given the nexus between PTSD, self-medicating with substances, and avoidance, the possession and wrongful use of various illicit substances and the AWOL are mitigated. However, there is no natural sequela between an Adjustment Disorder, PTSD, Anxiety Disorder NOS, or Obsessive Compulsive Disorder and larceny, unlawfully entering a barracks room with the intent to commit larceny, or receiving stolen property since none of these conditions interfere with the ability to distinguish between right and wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board

determined that the applicant's Post Traumatic Stress Disorder, Adjustment Disorder, Anxiety Disorder, Obsessive Compulsive Disorder outweighed the applicant's offenses AWOL and illegal substance abuse. However, the Board determined that an upgrade to Honorable was not warranted given the applicant's medically unmitigated offenses of larceny, unlawfully entering a barracks room with the intent to commit larceny and receiving stolen property.

**b.** Response to Contention(s): The applicant contends because they were suffering from PTSD, one of the symptoms of the condition could have been the reason for using drugs and the effect of the drugs, caused the applicant to steal the PlayStation. The applicant was diagnosed with PTSD while in service; however, they did not receive proper treatment and should have been afforded medical treatment and counseling before being booted out of the Army. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Adjustment Disorder, Anxiety Disorder, Obsessive Compulsive Disorder outweighed the applicant's offenses AWOL and illegal substance abuse. However, the Board determined that an upgrade to Honorable was not warranted given the applicant's medically unmitigated offenses of larceny, unlawfully entering a barracks room with the intent to commit larceny and receiving stolen property.

**c.** The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder, Adjustment Disorder, Anxiety Disorder, Obsessive Compulsive Disorder outweighing the applicant's offenses AWOL and illegal substance abuse. The Board found that the applicant's length and quality of service, to include combat service in Iraq, partially outweighed the applicant's medically unmitigated offenses of larceny, unlawfully entering a barracks room with the intent to commit larceny and receiving stolen property. 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 Post Traumatic Stress Disorder, Adjustment Disorder, Anxiety Disorder, Obsessive Compulsive Disorder outweighed the applicant's offenses AWOL and illegal substance abuse. The Board found that the applicant's length and quality of service, to include combat service in Iraq, partially outweighed the applicant's medically unmitigated offenses of larceny, unlawfully entering a barracks room with the intent to commit larceny and receiving stolen property. The applicant's General discharge is proper and equitable as the applicant's misconduct fell 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, as the reason the applicant was discharged was both proper and equitable.

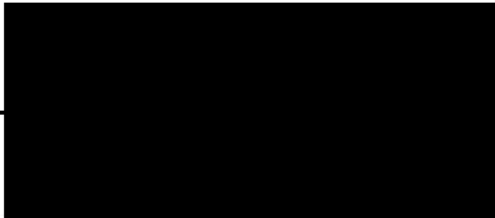
**(3)** The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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:

8/26/2025



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