

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 honorable.

The applicant seeks relief contending, in effect, struggling since the discharge without medical care and their mental health is deteriorating daily without proper care. The applicant hopes to receive medical and mental health benefits from the VA, because their problems started due to their tours of duty. The applicant served the country for 11 years, including two 15-month combat deployments to Afghanistan. During their career, the applicant deployed overseas three times and participated in over 20 missions. The applicant's military record will show a highly decorated and outstanding Soldier. The applicant requested help from their chain of command and instead of helping, the unit isolated them, so help was nearly impossible to obtain. The applicant was told numerous times they were a leader and needed to "Soldier on." The applicant's mental health caused them to be charged and choose a Chapter 10 discharge. The applicant has been diagnosed with Attention Deficit Hyperactive Disorder, Chronic PTSD, Insomnia, and Panic disorder with Agoraphobia. Their symptoms were so severe during their active-duty service, the applicant was on a multitude of medications which resulted in a total physical and mental melt down. The applicant's medication stopped working after they returned from their third overseas deployment and ultimately resulted in them going AWOL for seven days. With help from the applicant's family and chaplain, the applicant admitted themselves into a mental health facility. It was determined the applicant did not meet mental health standards in accordance with AR 40-501 by the Chief Physiologist. A medical board process was initiated prior to any charges being preferred. Charges were immediately brought against the applicant on the day they were released from the hospital. The applicant was so devastated by the charges they had to return to the hospital for 33 days. The applicant states the command believed the applicant's mental health had no bearing on the applicant's behavior or had anything to do with them going AWOL. The applicant was told their medical board would supersede any punishment; however, the JAG lawyer told them their medical board was null and void once charges were preferred. The applicant was stuck with inadequate help and given no choice other than to accept a Chapter 10 discharge. The applicant was told to accept the chapter or be incarcerated in prison for a minimum of four months. The applicant believes their command structure, attorney, and the doctors misled them.

b. Board Type and Decision: In a records review conducted on 4 March 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 outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. 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: 6 February 2012

c. Separation Facts:

(1) Date and Charges Preferred (DD Form 458, Charge Sheet): On 18 November 2011, the applicant was charged with:

Charge I: Violating Article 86, UCMJ, for being AWOL from

Specification 1: On or about 25 July 2011, without authority, fail to go at the time prescribed to their appointed place of duty.

Specification 2: On or about 8 August 2011, without authority, fail to go at the time prescribed to their appointed place of duty.

Specification 3: On or about 11 August 2011, without authority, fail to go at the time prescribed to his appointed place of duty.

Specification 4: On or about 12 August 2011, without authority, fail to go at the time prescribed to their appointed place of duty.

Specification 5: On or about 13 October 2011, without authority, fail to go at the time prescribed to their appointed place of duty.

Specification 6: On or about 15 September 2011, without authority, absent oneself from their unit and did remain so absent until on or about 26 September 2011.

Charge II: Violating Article 112a, UCMJ, Specification: Between on or about 16 May 2011 and on or about 15 June 2011, wrongfully use marijuana.

Charge III: Violating Article 134a, UCMJ, Specification: Between on or about 15 September 2011 and on or about 26 September 2011, wrongfully communicate to J. W., a threat to injure any member of Staff Sergeant W's, chain of command who visited their home, which conduct, under the circumstances, was to the prejudice of good order and discipline in the armed forces and was of a nature to bring discredit upon the armed forces.

(2) Legal Consultation Date: 26 January 2012

(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 / The chain of command recommended disapproval of the applicant's pretrial agreement.

(5) Separation Decision Date / Characterization: 27 January 2012 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 18 December 2007 / 6 years

b. Age at Enlistment / Education / GT Score: 30 / GED / NIF

c. Highest Grade Achieved / MOS / Total Service: E-6 / 25F30 Network Switching Systems Operator - Maintainer / 11 years, 2 months, 14 days

d. Prior Service / Characterizations: RA, 16 November 2000 – 20 December 2004 / HD
RA, 21 December 2004 – 28 October 2006 / HD
RA, 29 October 2006 – 17 December 2007 / HD

e. Overseas Service / Combat Service: El Salvador, SWA / Afghanistan (20 October 2006 – 14 January 2008); Qatar (23 February 2010 – 10 February 2011)

f. Awards and Decorations: ACM-CS, ARCOM-3, AAM-3, AGCM-3, NDSM, GWOTSM, GWOTEM, HSM, NCOPDR, ASR, OSR-2, MOVSM, NATOMDL

g. Performance Ratings: April 2006 – August 2006 / Among the Best
1 September 2006 – 31 March 2007 / Fully Capable
1 April 2007 – 31 March 2010 / Among the Best
1 April 2010 – 31 March 2011 / Among the Best

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

i. Lost Time / Mode of Return: 6 days (AWOL, 19 September 2011 – 25 September 2011) / NIF

j. Behavioral Health Condition(s):

(1) Applicant provided: Physical Profile, 3 October 2011, reflect no deployments, weapons, or ammunition. No alcohol or any illicit drugs. The applicant was on sleep medications; allow at least 8 hours for sleep per 24-hour block. Facilitate treatment appointments including all Army Substance Abuse Program & Behavioral Health. The applicant was referred to a Medical Evaluation Board.

(2) AMHRR Listed: None

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those 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; Statement in support of claim; Physical Profile; Special Court Martial Order number 9.

6. POST SERVICE ACCOMPLISHMENTS: None were 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 635-40 (Disability Evaluation for Retention, Retirement, or Separation), paragraph 4-3f(1), states enlisted Soldiers who are approved for discharge in lieu of trial by court-martial are ineligible for referral to the MEB and PEB phases of the DES (see AR 635-200). If the Soldier is in the DES process, the applicant's DES case will be terminated, and the Soldier is discharged in lieu of trial by court-martial.

e. 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 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8.

(7) 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.)

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

f. 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.

g. 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. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance.

The applicant contends being diagnosed with Attention Deficit Hyperactive Disorder, Chronic PTSD, Insomnia, and Panic disorder with Agoraphobia and referred to a Medical Evaluation Board. The applicant provided a Physical Profile, 3 October 2011, reflecting no deployments, weapons, or ammunition. No alcohol or any illicit drugs. The applicant was on sleep medications; allow at least 8 hours for sleep per 24-hour block. Facilitate treatment appointments including all Army Substance Abuse Program & Behavioral Health. The applicant was referred to a Medical Evaluation Board. The applicant contends a Medical Evaluation Board was under process at the time of the separation proceedings. The Department of Defense disability regulations do not preclude a disciplinary separation while undergoing a medical board. Appropriate regulations stipulate separations for misconduct take precedence over potential separations for other reasons. Whenever a member is being processed through the Physical Evaluation Board and is subsequently processed for an involuntary administrative separation or referred to a court-martial for misconduct, the disability evaluation is suspended. The Physical Evaluation Board case remains in suspense pending the outcome of the non-disability proceedings. If the action includes either a punitive or administrative discharge for misconduct, the medical process is stopped, and the board report is filed in the member's medical record. The AMHRR is void of a mental status evaluation.

The applicant contends asking for help from their chain of command and instead of helping, the unit isolated them, so help was nearly impossible to obtain. The applicant was told numerous times they were a leader and needed to "Soldier on." The applicant believes their command structure, attorney, and the doctors misled them. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including two combat tours. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends their medication stopped working after they returned from their third overseas deployment and ultimately resulted in them going AWOL for seven days. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. There is no evidence in the AMHRR the applicant sought assistance or reported their issues.

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: PTSD, MDD, Anxiety Disorder, Adjustment Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found the applicant is 50 percent SC for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD and avoidant behavior, PTSD and the use of substances to self-medicate, PTSD and having verbal outbursts, the applicant's offenses of FTR, AWOL, wrongful use of marijuana, and communicating a threat are mitigated.

(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 outweighed the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with Attention Deficit Hyperactive Disorder, Chronic PTSD, Insomnia, and Panic Disorder with Agoraphobia and referred to a Medical Evaluation Board. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat. Therefore, a discharge upgrade is warranted.

(2) The applicant contends asking for help from their chain of command and instead of helping, the unit isolated them, so help was nearly impossible to obtain. The applicant was told

numerous times they were a leader and needed to "Soldier on." The applicant believes their command structure, attorney, and the doctors misled them. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat.

(3) The applicant contends good service, including two combat tours. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat.

(4) The applicant contends their medication stopped working after they returned from their third overseas deployment and ultimately resulted in them going AWOL for seven days. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat.

c. The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. 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 outweighed the applicant's offenses of AWOL, FTR, illegal substance abuse, and communicating a threat. 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.

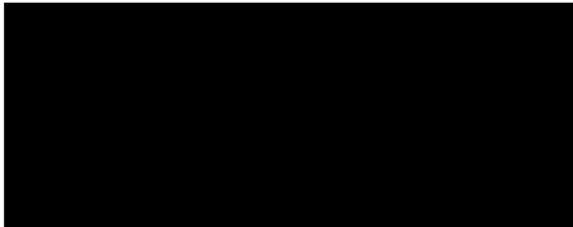
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

Authenticating Official:

3/21/2025



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