

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, having numerous psychiatric problems, on medication, and volunteering to deploy to Iraq for the second time. The applicant believes they should have been medically discharged after their first tour in Iraq. The applicant states their mental issues overwhelmed them and they were not thinking correctly.

b. Board Type and Decision: In a records review conducted on 27 February 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length of service, to include combat service, and partial medical mitigation of the applicant's misconduct combining to outweigh the discharge. 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: 13 September 2011**c. Separation Facts:**

(1) Date and Charges Preferred (DD Form 458, Charge Sheet): On 12 August 2011, the applicant was charged with:

Charge I: Violating Article 90, UCMJ, for: Specification: On or about 8 August 2011, lift a weapon, to wit: an axe, against Captain C. F., their superior commissioned officer, then known by the accused to be their superior commissioned officer, who was then in the execution of their office.

Charge II: Violating Article 91, UCMJ, for:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000425

Specification 1: On or about 8 August 2011, was disrespectful in language toward Master Sergeant (MSG) M. H., who was then in the execution of their office, by saying to them "fuck this shit," or words to that effect.

Specification 2: On or about 8 August 2011, was disrespectful in language toward MSG M. H., who was then in the execution of their office, by saying to them "that's the motherfucker I want," or words to that effect.

Charge III: Violating Article 134, UCMJ, for: Specification: On or about 8 August 2011, wrongfully communicate to Captain C. F., a threat to injure members of their chain of command by shooting up a building.

(2) Legal Consultation Date: 16 August 2011

(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: 25 August 2011 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 25 September 2011 / 3 years, 26 weeks / The applicant extended for 11 months with a new ETS date of 25 February 2012.

b. Age at Enlistment / Education / GT Score: 24 years / GED / 95

c. Highest Grade Achieved / MOS / Total Service: E-3 / 91B10, Wheeled Vehicle Mechanic / 3 years, 11 months, 19 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (7 October 2008 – 3 March 2009; 9 November 2010 – 23 August 2011)

f. Awards and Decorations: AGCM, NDSM, ICM-CS, ASR

g. Performance Ratings: NA

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

CG Article 15, 1 August 2011, on or about 6 June 2011, attempt to strike and wrongfully communicate to Captain P. V., a threat to kill them. The punishment consisted of a reduction to E-1; forfeiture of \$365 (suspended); and extra duty for 45 days.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Medical Note, Seattle Mental Health Psychiatric Evaluation, 8 June 2004, reflects a diagnosis of Attention deficit and hyperactivity disorder; Bipolar disorder; Depression disorder. Axis II: Personality disorder/ Axis III and IV is illegible.

Chronological Record of Medical Care, 20 July 2011, reflects a diagnosis of Adjustment disorder with depressed mood; Occupational problem; Cognitive disorder; Episodic disorder; Adult attention deficit hyperactivity disorder; Depression; Developmental disorder; Bipolar disorder; Insomnia related to axis I and II, mental disorder nonorganic; Other interpersonal problem.

Crescent Psychiatry, 8 December 2015, the applicant was diagnosed with Schizo affective disorder, unspecified; Anxiety disorder unspecified; post-traumatic stress disorder, chronic and unspecified.

(2) AMHRR Listed: Chronological Record of Medical Care, 16 February 2009, reflects a diagnosis of Axis I: Probable Adult Attention Deficit Hyperactivity Disorder; Bipolar Spectrum Illness, currently in a mixed affective state; Reading Disorder. Axis II: Psychological test evidence suggestive of personality disorder with antisocial and narcissistic features.

Report of Mental Status Evaluation, 13 July 2013, reflects the evaluation included a diagnosis of Adjustment Disorder with depressed mood and occupational problems.

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; two Applications for the Review of Discharge; self-authored letter; Statement in support of discharge; medical records; Veteran's Application for Compensation and /or Pension; two letters of support; Memorandum of Military Magistrate's conclusions; Request for Discharge; Statement in Support of Discharge; request for Discharge; Army Continuing Education System letter; Form Report to Suspend Favorable Personnel Actions (FLAG); Orders.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought treatment for their mental health from Crescent Psychiatry.

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 applicant contends having numerous psychiatric problems and was on medication. The applicant provided a Medical Note, Seattle Mental Health Psychiatric Evaluation, 8 June 2004, reflecting a diagnosis of Attention deficit and hyperactivity disorder; Bipolar disorder; Depression disorder; Axis II: Personality disorder/ Axis III and IV are illegible. Also, a Chronological Record of Medical Care, 20 July 2011, reflecting a diagnosis of Adjustment disorder with depressed mood; Occupational problem; Cognitive disorder; Episodic disorder; Adult attention deficit hyperactivity disorder; Depression; Developmental disorder; Bipolar disorder; Insomnia related to Axis I and II, mental disorder nonorganic; Other interpersonal problem. The AMHRR includes a Chronological Record of Medical Care, 16 February 2009, reflecting a diagnosis of Axis I: Probable Adult Attention Deficit Hyperactivity Disorder; Bipolar Spectrum Illness, currently in a mixed affective state; Reading Disorder; Axis II: Psychological test evidence suggestive of personality disorder with antisocial and narcissistic features.

The applicant contends they should have been medically discharged after their first tour in Iraq. The applicant provided third-party statements reflecting the applicant was given many diagnoses, and a concern the diagnosing professionals did not have adequate time to figure out what was really going on with the applicant, who tried the best they could to figure it out. An inaccurate diagnosis would have denied the applicant the careful pharmacological titration a close psychiatric supervision necessary to establish the regimen of treatment which could provide reliable symptom relief. The applicant's employer states they have been a model employee. Army Regulation 635-200, in pertinent part, stipulates commanders will not separate Soldiers for a medical condition solely to spare a Soldier who may have committed serious acts of misconduct.

The applicant contends seeking treatment for their mental health from Crescent Psychiatry. 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, Bipolar Disorder NOS, Anxiety Disorder NOS, Depression, Schizoaffective Disorder, PTSD.

(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, Bipolar Disorder NOS, Anxiety Disorder NOS, and Depression. Post service, the applicant was diagnosed with

Schizoaffective Disorder and PTSD associated with childhood abuse and neglect that more likely than not existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge?

Partially. The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions partially mitigate the discharge. The applicant was diagnosed in service with an Adjustment Disorder, Bipolar Disorder NOS, Anxiety Disorder NOS, and Depression. Post service, the applicant was diagnosed with Schizoaffective Disorder and PTSD. Given the nexus between PTSD and difficulty with authority, as well as the nexus between Bipolar Disorder and difficulties with impulse control, the use of disrespectful language is mitigated. However, there is no mitigation for lifting an axe against a superior or communicating a threat to injure members of the chain of command by shooting up a building. This misconduct is not characteristic of any of the applicant's BH conditions. There is no evidence that the applicant was psychotic or out of touch with reality when he committed these aggressive acts. On the contrary, the applicant acknowledged making a conscious choice with intention and motivation when he engaged in this misconduct.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Bipolar Disorder, Anxiety Disorder, Depression, Schizoaffective Disorder, Post Traumatic Stress Disorder outweighed the applicant's medically unmitigated offenses of communicating a threat.

b. Response to Contention(s):

(1) The applicant contends having numerous psychiatric problems and was on medication. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, Bipolar Disorder, Anxiety Disorder, Depression, Schizoaffective Disorder, Post Traumatic Stress Disorder outweighed the applicant's medically unmitigated offenses of communicating a threat. However, the Board did find that the applicant's behavioral health conditions did mitigate the applicant's Disrespect offenses. With partial medical mitigation, the Board found that an upgrade to General characterization of service was warranted.

(2) The applicant contends they should have been medically discharged after their first tour in Iraq. The Board determined that the applicant's request for a medical discharge does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding this matter. A DD Form 293 may be obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization.

(3) The applicant contends seeking treatment for mental health from Crescent Psychiatry. The Board is glad to know that the applicant has sought treatment but did not find that this contention warranted further upgrade to the applicant's discharge.

c. The Board determined that the characterization of service was inequitable based on the applicant's length of service, to include combat service, and partial medical mitigation of the applicant's misconduct combining to outweigh the discharge. 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20210000425****d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to General because the applicant's length of service, to include combat service, and partial medical mitigation combined to outweigh the discharge. The applicant's General discharge is proper and equitable as the applicant's medically unmitigated 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, as the reason the applicant was discharged was both proper and equitable.

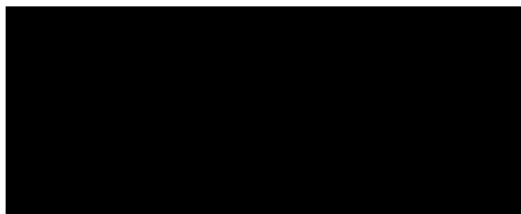
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

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

Authenticating Official:

3/12/2025

**Legend:**

AWOL – Absent Without Leave
AMHRR – Army Military Human
Resource Record
BCD – Bad Conduct Discharge
BH – Behavioral Health
CG – Company Grade Article 15
CID – Criminal Investigation
Division
ELS – Entry Level Status
FG – Field Grade Article 15

GD – General Discharge
HS – High School
HD – Honorable Discharge
IADT – Initial Active Duty Training
MP – Military Police
MST – Military Sexual Trauma
N/A – Not applicable
NCO – Noncommissioned Officer
NIF – Not in File
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
OBH (I) – Other Behavioral
Health (Issues)
OMPF – Official Military
Personnel File
PTSD – Post-Traumatic Stress
Disorder
RE – Re-entry
SCM – Summary Court Martial
SPCM – Special Court Martial

SPD – Separation Program
Designator
TBI – Traumatic Brain Injury
UNC – Uncharacterized
Discharge
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs