

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 general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, requesting an upgrade to allow them to receive the proper benefits and better oneself, their family, and community. The applicant believes, their discharge was improper because it was based on a few minor incidents after two combat tours and 84 months of service.

b. **Board Type and Decision:** In a records review conducted on 20 February 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Adjustment Disorder, Major Depression, Traumatic Brain Injury, and Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, and wrongfully ordering a contraband substance. The Board found that the applicant's unmitigated offense of failing to wear an ACH did not rise to a level to negate meritorious service. 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:** Condition, Not a Disability / AR 635-200, Chapter 5-17 / JFV / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 27 July 2012

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 8 June 2012

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant had been diagnosed with Adjustment Disorder with Anxiety and Avoidant Personality Disorder by a clinical psychologist.

The applicant was absent from their unit without authorization from 1 to 7 November 2011.

The applicant failed to report on nine diverse occasions between on or about 27 December 2010 and 12 December 2011.

On 20 January 2011, the applicant was disrespectful in language and disobeyed a direct order from a noncommissioned officer;

The applicant was disrespectful in deportment and disobeyed a direct order from 1SG S. C., on 5 December 2011.

The applicant disobeyed a direct order from Sergeant First Class T. C., on 5 December 2011.

On 11 August 2011, the applicant wrongfully ordered a contraband substance.

The applicant was derelict in the performance of their duties by failing to put on their Advanced Combat Helmet while operating a HMMWV without a truck commander on 20 January 2011.

Between on or about 15 June 2011 and on or about 14 July 2011, the applicant wrongfully used marijuana, a controlled substance; and between on or about 10 December 2011 and 10 January 2012, the applicant wrongfully used marijuana, a controlled substance.

(3) Recommended Characterization: General (Under Honorable Conditions)

(4) Legal Consultation Date: 12 June 2012

(5) Administrative Separation Board: On 12 June 2012, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than general (under honorable conditions) discharge.

On 5 March 2012, the applicant unconditionally waived consideration of the case before an administrative separation board as part of an Offer to Plead Guilty in a Summary Court-Martial proceedings.

(6) Separation Decision Date / Characterization: undated / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 19 February 2010 / 3 years

b. Age at Enlistment / Education / GT Score: 27 / some college / 110

c. Highest Grade Achieved / MOS / Total Service: E-4 / 89B10, Ammunition Specialist / 7 years, 3 months, 6 days

d. Prior Service / Characterizations: RA, 27 June 2000 – 31 May 2002 / GD
RA, 1 March 2007 – 18 February 2010 / HD

e. Overseas Service / Combat Service: SWA / Iraq (8 October 2008 – 18 September 2009; 8 November 2010 – 26 October 2011)

f. Awards and Decorations: ARCOM, MUC, AGCM, NDSM, GWOTSM, ICM-2CS, ASR, OSR-2

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Military Police Report, 8 November 2010, reflects the applicant was apprehended for: Wrongful use of a controlled substance (on post).

CG Article 15, 26 February 2011, for on or about 20 January 2011, were disrespectful in language and deportment toward Sergeant D. Y. a noncommissioned officer, then known by applicant to be a noncommissioned officer, who was then in the execution of their office, by walking aggressively toward them and saying to, "Hold up you, you aren't going to talk to me like that, I'm a grown ass man," or words to that effect. On or about 20 January 2011, was derelict in the performance of those duties in which the applicant negligently operated a HMMWV without their Advanced Combat Helmet (ACH) or a vehicle commander (TC), as it was their duty to do. On or about 20 January 2011 disobeyed a lawful order. The punishment consisted of extra duty for 14 days and written reprimand.

FG Article 15, 8 September 2011, for on or about 11 August 2011, violate a lawful general order by wrongfully ordering a contraband substance. The punishment consisted of a reduction to E-1; forfeiture of \$783 pay per month for two months and extra duty for 45 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 1 November 2011; and

From AWOL to PDY, effective 7 November 2011.

Electronic Copy of DD Form 2624, 25 January 2012, reflects the applicant tested positive for THC 464 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 10 January 2012.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: 23 days:

AWOL, 1 November 2011 – 6 November 2011 / NIF

AWOL, 3 April 2012 – 4 April 2012 / NIF

AWOL, 21 May 2012 – 7 June 2012 / NIF

j. Behavioral Health Condition(s):

(1) **Applicant provided:** None

(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; Veterans Affairs letter; Army Continuing Education letter.

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

7. STATUTORY, REGULATORY AND POLICY REFERENCE(s):

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a 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) Chapter 5 provides for the basic separation of enlisted personnel for the convenience of the government.

(5) Paragraph 5-1, states a Soldier being separated under this paragraph will be awarded a characterization of service of honorable, general (under honorable conditions), or an uncharacterized description of service if in entry-level status. A general (under honorable conditions) discharge is normally inappropriate for individuals separated under the provisions of paragraph 5-14 (previously paragraph 5-17) unless properly notified of the specific factors in the service that warrant such characterization.

(6) Paragraph 5-14 (previously paragraph 5-17) specifically provides that a Soldier may be separated for other physical or mental conditions not amounting to a disability, which interferes with assignment to or performance of duty and requires that the diagnosis be so severe that the Soldier's ability to function in the military environment is significantly impaired.

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 "JFV" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 5-14 (previously Chapter 5-17), Condition, Not a Disability.

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

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 their discharge was improper because it was based on a few minor incidents. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR indicates the applicant committed many discrediting offenses. Army Regulation 635-200, in pertinent part, stipulates circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends an upgrade of the discharge would allow veterans benefits and educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does 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.

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

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.

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, Major Depression, TBI, 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, Major Depression and TBI and is service connected by the VA for PTSD. Service connection establishes that the applicant's PTSD also 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. Given the nexus between PTSD, Major Depression, and avoidance, the AWOL and FTRs are mitigated. Given the nexus between PTSD and difficulty with authority, the disrespect and disobeying orders are mitigated. Given the nexus between PTSD, Major Depression, TBI, and self-medicating with substances, wrongfully ordering a contraband substance and wrongful use of marijuana are mitigated. The only misconduct that is not mitigated is being derelict in the performance of duties due to failing to put on an Advanced Combat Helmet. This misconduct involves a conscious choice to disregard

a safety regulation that does not have a nexus with any of the applicant's BH conditions. There is no evidence that any of the applicant's BH conditions contributed to this misconduct.

(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 Adjustment Disorder, Major Depression, Traumatic Brain Injury, and Post Traumatic Stress Disorder outweighed the applicant's offenses of AWOL, FTR, illegal substance abuse, and wrongfully ordering a contraband substance. The Board found that the applicant's unmitigated offense of failing to wear an ACH did not rise to a level to negate meritorious service.

b. Response to Contention(s):

(1) The applicant contends their discharge was improper because it was based on a few minor incidents. 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 Adjustment Disorder, Major Depression, Traumatic Brain Injury, and Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, wrongfully ordering a contraband substance, and wrongful use of marijuana. The Board found that the applicant's unmitigated offense of failing to wear an ACH did not rise to a level to negate meritorious service. Therefore, a discharge upgrade is warranted.

(2) The applicant contends an upgrade of the discharge would allow veterans benefits and educational benefits through the GI Bill. 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.

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

(4) 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 medical mitigation of the applicant's most significant misconduct.

c. The Board determined that the characterization of service was inequitable based on the applicant's Adjustment Disorder, Major Depression, Traumatic Brain Injury, and Post Traumatic Stress Disorder outweighing the applicant's offenses of AWOL, FTR, illegal substance abuse, wrongfully ordering a contraband substance, and wrongful use of marijuana. The Board found that the applicant's unmitigated offense of failing to wear an ACH did not rise to a level to negate meritorious service. 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 Adjustment Disorder, Major Depression, Traumatic Brain Injury, and Post Traumatic Stress Disorder outweighed the applicant's offenses of AWOL, FTR, illegal substance abuse, wrongfully ordering a contraband substance, and wrongful use of marijuana.

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The Board found that the applicant's unmitigated offense of failing to wear an ACH did not rise to a level to negate meritorious service. 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.

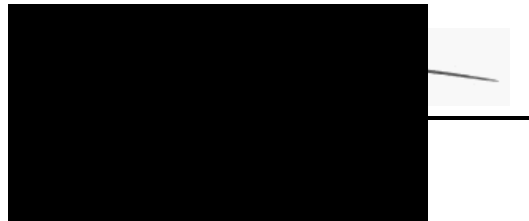
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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:

2/28/2025



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