

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, through counsel, requests an upgrade to honorable.

The applicant seeks relief contending, in effect, serving honorably in the Army from 30 August 2005 until 13 February 2010. During the time, they served more than 18 months in Iraq and received profound psychological injuries. These psychological injuries prevented the applicant from fulfilling their Reserve obligation; however, the applicant worked with the VA clinicians to inform the command of their condition. During the separation proceedings, the applicant did not receive the legally required notice and was never informed of their right to request an administrative separation Board. The applicant contends being rated 70 percent service-connected for PTSD by the VA.

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 medically mitigated unsatisfactory participation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable.

*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: Unsatisfactory Participation / AR 135-178, Chapter 13 / NA / NA / Under Other Than Honorable Conditions

b. Date of Discharge: 19 December 2012

c. Separation Facts

(1) Date of Notification of Intent to Separate: On 3 July 2012, the applicant's commander mailed the applicant the notification via certified mail, with a suspense of 30 days to acknowledge the notice and rights. The certified mail was returned to sender on 31 July 2012.

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant failed to attend at least nine Army Reserve Training assemblies within a one-year span and failed to provide a valid excuse for the absence.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: The applicant failed to respond to the notification of separation, thereby waiving right to counsel.

(5) Administrative Separation Board: The applicant failed to respond to the notification of separation, thereby waiving right to an administrative separation board.

(6) Separation Decision Date / Characterization: 3 December 2012 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: USAR, 14 February 2010 / The applicant had a Reserve Obligation Termination date of 24 August 2013.

b. Age at Enlistment / Education / GT Score: 23 / High School Graduate / 80

c. Highest Grade Achieved / MOS / Total Service: E-2 / 92F10, Petroleum Supply Specialist / 7 years, 3 months, 19 days

d. Prior Service / Characterizations: RA, 30 August 2005 – 13 February 2010 / HD

e. Overseas Service / Combat Service: SWA / Iraq (23 April 2008 – 11 July 2009; 15 May 2006 – 18 November 2006)

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

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The applicant provided, Letter of Instructions – Unexcused Absence, 9 August 2010, reflecting the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

7 August 2010 (MUTA 1 and 2)

8 August 2010 (MUTA 1 and 2)

Letter of Instructions – Unexcused Absence, 16 February 2012, reflects the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

11 February 2012 (MUTA 1 and 2)

12 February 2012 (MUTA 1 and 2)

Affidavit of Service by Mail, reflects the Letter of Instructions, 16 February 2012, was mailed to the applicant via certified mail on 23 February 2012.

Letter of Instructions – Unexcused Absence, 6 March 2012, reflects the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

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3 March 2012 (MUTA 1 and 2)

4 March 2012 (MUTA 1 and 2)

Affidavit of Service by Mail, reflects the Letter of Instructions, 6 March 2012, was mailed to the applicant via certified mail on 15 March 2012.

Letter of Instructions – Unexcused Absence, 17 April 2012, reflects the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

13 April 2012 (MUTA 1 and 2)

14 April 2012 (MUTA 1 and 2)

Affidavit of Service by Mail, reflects the Letter of Instructions, 17 April 2012, was mailed to the applicant via certified mail on 23 April 2012.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Miami VA Health System Letter, 14 April 2010, reflects the applicant was evaluated after their deployment at the VA hospital. The applicant was diagnosed with severe non specified anxiety disorder. It was the attending physician's opinion and the resolution of the interdisciplinary team after discussing the case, the applicant should be withheld from participation in any military drill until the applicant was cleared from this psychiatric disorder. The recommendation was made due to the possibility the applicant's condition could worsen with the exposure to such environment and to avoid harm to the applicant or other military members.

Compensation and Pension Exam Report, 29 September 2010, reflects the applicant was diagnosed with Axis I: PTSD and Axis IV: Poor coping skills.

Health Record, 29 October 2009, reflects the applicant was diagnosed with adjustment disorder with anxious mood and prescribed medication.

VA Rating Decision Letter, 8 October 2010 and 29 November 2010, reflect the applicant was granted 70 percent service-connected disability for PTSD.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Legal Services of Greater Miami, Inc. Letter; attorney brief with listed exhibits A through S; Declaration from the applicant; Certificate of Release or Discharge from Active Duty; medical records; Miami VA Health System Letter; Letter of Instructions – Unexcused Absence; Orders 12-349-00040.

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 135-178 (Enlisted Administrative Separations), prescribes the policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) Paragraph 2-9a prescribes an honorable characterization 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.

(2) Paragraph 2-9b, prescribes, if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as general (under honorable conditions). Characterization of service as general (under honorable conditions) is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

(3) Paragraph 2-9c, prescribes the service may be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, unsatisfactory participation, or security reasons, and under other circumstances.

(4) Paragraph 3-10b, prescribes reasonable effort should be made to furnish copies of the notification memorandum to the Soldier through personal contact by a representative of the command. In such a case, a written acknowledgment of receipt of the notification will be obtained. If the Soldier cannot be contacted or refuses to acknowledge receipt of the notification, the notification memorandum will be sent by registered or certified mail, return receipt requested, to the most recent address furnished by the soldier as an address for receipt or forwarding of official mail. The individual who mails the notification will prepare a Affidavit of Service by Mail. This will be inserted in the Soldier's personnel file together with PS form 3800.

(5) Paragraph 3-12a, prescribes if the notification memorandum was mailed in accordance with paragraph 3-10b and the Soldier fails to acknowledge receipt, or to submit a reply by endorsement within 30 calendar days, that fact will constitute a waiver of rights. An appropriate notation will be recorded on a retained copy of the notification memorandum.

(6) Paragraph 3-12b, prescribes if the Soldier declines to respond as to the selection of rights, such declination will constitute a waiver of rights and an appropriate notation will be made on the retained copy of the notification memorandum.

(7) Chapter 12 (previously Chapter 13), provides in pertinent part, that individuals can be separated for being an unsatisfactory participant. Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because: The Soldier is an unsatisfactory participant as prescribed by AR 135-91, chapter 4; Attempts to have the Soldier respond or comply with orders or correspondence.

(8) Paragraph 12-3, prescribes the service of Soldiers separated under this chapter will be characterized as honorable or under honorable conditions as determined under chapter 2, section III, unless an uncharacterized description of service is warranted under paragraph 2-11.

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 being diagnosed with PTSD after serving a second combat deployment. The applicant was also diagnosed with adjustment disorder with anxious mood and placed on medication following a series of incidents related to anger management difficulties. The applicant was in treatment from the Department of Veterans Affairs. Despite the diagnosis, the applicant still had a Reserve obligation. The clinicians at VA worked with the applicant to inform the Reserve unit the applicant was unfit for duty in order to avoid harm to the applicant or other military members. The applicant was given a letter from one of the treating clinicians at VA on 14 April 2010, which the applicant provided to the Reserve command. The command told the applicant the letter was sufficient to excuse them from the Reserve obligation. The applicant provided a Miami VA Health System letter, 14 April 2010, which reflects the applicant was evaluated after their deployment at the VA hospital. The applicant was diagnosed with severe non specified anxiety disorder. It was the attending physician's opinion and the resolution of the interdisciplinary team after discussing the case, the applicant should be withheld from participation in any military drill until the applicant was cleared from this psychiatric disorder. The recommendation was made due to the possibility the applicant's condition could worsen with the exposure to such environment and to avoid harm to the applicant or other military members. Compensation and Pension Exam Report, 29 September 2010, reflects the applicant was diagnosed with Axis I: PTSD and Axis IV: Poor coping skills. Health Record, 29 October 2009, reflects the applicant was diagnosed with adjustment disorder with anxious mood and prescribed medication. A VA Rating Decision letter, 8 October 2010 and 29 November 2010, reflect the applicant was granted 70 percent service-connected disability for PTSD. The applicant's AMHRR includes no documentation of PTSD diagnosis.

The applicant contends never being informed about the imminent discharge. The evidence in the applicant's AMHRR shows the unit commander attempted to contact the applicant on several occasions and mailed the discharge packet to the last known address via certified mail on 3 July 2012. The evidence of the record shows the applicant had failed to submit a reply. In accordance with AR 135-178, paragraph 3-12a, this failure to submit a reply within 30 days of receipt of the notice constitutes a waiver of the right to respond.

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 never being given any notice of rights and was not provided with the opportunity to appear before an administrative separation board. The evidence in the AMHRR reflects the unit commander attempted to contact the applicant on several occasions and mailed the discharge packet to the last known address via certified mail on 3 July 2012, with a suspense of 30 days to acknowledge the notice and rights. The certified mail was returned to sender on 31 July 2012. In accordance with AR 135-178, paragraph 3-12b, this failure to submit a reply within 30 days of receipt of the notice constitutes a waiver of the right to respond.

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: Yes. The Board's Medical Advisor, a voting member, 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, Adjustment Disorder w/Anxiety subsumed by PTSD, Bipolar II Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found the applicant is 70 percent SC for PTSD and has a post-service diagnosis of Bipolar Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the Board Medical Advisor opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD and avoidant behavior, the applicant's failure to attend at least 9 battle assemblies within one year is mitigated. There is no indication in the medical records that the applicant experience Bipolar Disorder-related symptoms while serving, so no mitigation is offered for that condition.

(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 medically mitigated unsatisfactory participation.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD after serving a second combat deployment. The applicant was also diagnosed with adjustment disorder with anxious mood and placed on medication following a series of incidents related to anger management difficulties. The applicant was in treatment from the Department of Veterans Affairs. Despite the diagnosis, the applicant still had a reserve obligation. The clinicians at VA worked with the applicant to inform the reserve unit the applicant was unfit for duty in order to avoid harm to the applicant or other military members. The applicant was given a letter from one of the treating clinicians at VA on 14 April 2010, the applicant provided it to the reserve command. The command told the applicant the letter was sufficient to excuse them from the reserve obligation. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's unsatisfactory participation. Therefore, a discharge upgrade is warranted.

(2) The applicant contends never being informed about the imminent discharge. 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 medically mitigated unsatisfactory participation.

(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 medically mitigated unsatisfactory participation.

(4) The applicant contends never being given any notice of rights and was not provided with the opportunity to appear before an administrative separation board. 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 medically mitigated unsatisfactory participation.

c. The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's medically mitigated unsatisfactory participation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable.

d. Rationale for Decision: 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 medically mitigated unsatisfactory participation. Thus, the prior characterization is no longer appropriate.

10. BOARD ACTION DIRECTED:

- a. Issue a New Separation Order: Yes
- b. Change Characterization to: Honorable
- c. Change Authority to: AR 135-178

Authenticating Official:

6/16/2025



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
 UOTH – Under Other Than
 Honorable Conditions
 VA – Department of Veterans
 Affairs