

**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, doing a sixteen-month tour in Afghanistan and having numerous exchanges with the enemy. The applicant has lost many friends and has laid down their life for the U.S. Since the discharge from the Army, the applicant has had problems coping with PTSD and has been unsuccessful at holding a steady job and interacting with people on a day-to-day basis. The applicant believes after serving a combat tour, they should have been allowed to seek medical and mental help with the VA to cope with their problems. The applicant is requesting an upgrade to receive the benefits they believe they deserve.

**b. Board Type and Decision:** In a records review conducted on 12 December 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Adjustment Disorder and PTSD outweighing the AWOL, disrespect and larceny of government property basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General Under Honorable Conditions. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

*Please see Section 9 of this document for more details regarding the Board's decision. Board member names available upon request.*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 16 November 2010**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 20 October 2010

**(2) Basis for Separation:** The applicant was informed of the following reasons:

Failed to obey and disrespected noncommissioned officers;

Was found guilty by Summary Court-Martial for Article 86, UCMJ, AWOL from on or about 21 September to 1 October 2009, 3 February to 3 March 2010; 27 to 28 April 2010; and 19 May to 14 October 2010; and,

Larceny of a television which was military property.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

**(4) Legal Consultation Date:** 20 October 2010

**(5) Administrative Separation Board:** On 20 October 2010, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 8 November 2010 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 25 June 2007 / 3 years, 24 weeks

**b. Age at Enlistment / Education / GT Score:** 18 / GED / 92

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 91B10, Wheeled Vehicle Mechanic / 2 years, 10 months, 7 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Afghanistan (15 April 2008 – 12 July 2009)

**f. Awards and Decorations:** ACM-CS, NDSM, GWOTSM, ASR, OSR, NATOMDL

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Twelve Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 21 September 2009;

From AWOL to PDY, effective 1 October 2009;

From PDY to AWOL, effective 3 February 2010;

From AWOL to Dropped From Rolls (DFR), effective 2 March 2010;

From Present for Duty (PDY) to Confined by Civil Authorities (CCA), effective 3 March 2010;

From CCA to PDY, effective 12 March 2010;

From PDY to AWOL, effective 27 April 2010;

From AWOL to PDY, effective 28 April 2010;

From PDY to AWOL, effective 19 May 2010;

From AWOL to DFR, effective 18 June 2010;

From DFR to CCA, effective 13 October 2010; and,

From CCA to PDY, effective 15 October 2010.

CG Article 15, 30 November 2009, on or about 21 September 2009, without authority, absent oneself from the unit and did remain so absent until on or about 1 October 2009. The punishment consisted of a reduction to E-2; forfeiture of \$366 pay per month for one month (suspended); and extra duty and restriction for 14 days.

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Military Police Report Number 00287-2010-MPC093-1, 4 February 2010, reflects the applicant was the subject of an investigation for larceny of Government property (Article 121, UCMJ).

Report of Result of Trial reflects the applicant was tried in a Summary Court-Martial on 15 October 2010. The applicant was charged with five specifications. The summary of offenses, pleas, and findings:

Charge I: Violation of Article 86, UCMJ:

Specification 1: AWOL from 21 September 2009 to 1 October 2009; guilty, consistent with the plea.

Specification 2: AWOL from 3 February 2010 to 3 March 2010, guilty, consistent with the plea.

Specification 3: AWOL from 27 April 2010 to 28 April 2010, guilty, consistent with the plea.

Specification 4: AWOL from 19 May 2010 to 14 October 2010, guilty, consistent with the plea.

Charge II: Violation of Article 121, UCMJ: The Specification: Larceny of military property, of a value greater than \$500, guilty, consistent with the plea.

Sentence: Forfeiture of \$1,282 pay for one month, Reduction to the grade of E-1 and Confinement for 30 days.

Several Developmental Counseling Forms, for various acts of misconduct.

**i. Lost Time / Mode of Return:** 193 days:

AWOL, 21 September 2009 – 30 September 2009 / Returned to Military Control

AWOL, 3 February 2010 – 11 March 2010 / Released from Confinement

AWOL, 19 May 2010 – 14 October 2010 / Released from Confinement

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Mental Status Evaluation (MSE), 17 March 2010, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The applicant was diagnosed with Axis I: Adjustment Disorder with anxiety and depressed mood. Cannabis abuse (by history) and Axis IV: Occupational Problem.

*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:** Application for the Review of Discharge and Certificate of Release or Discharge from Active Duty.

**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)** 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 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

**(6)** Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

**(7)** Paragraph 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

**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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

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 good service, including a sixteen-month combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends since being discharged, they have had problems coping with PTSD and believes after a combat tour, they should have been allowed the chance to seek medical and mental help with the VA to cope with their problems. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 17 March 2010, which reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The applicant was diagnosed with Axis I: Adjustment Disorder with anxiety and depressed mood. Cannabis abuse (by history) and Axis IV: Occupational Problem. The MSE was considered by the separation authority.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits 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.

#### **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'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: Adjustment Disorder and PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder 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's Medical Advisor applied liberal consideration and opined that there is evidence of BH conditions that provide partial mitigation for the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for PTSD. Given the nexus between PTSD, difficulty with authority and avoidance, failing to obey and disrespect of NCOs and the AWOLs are mitigated. However, there is no natural sequela between an Adjustment Disorder or PTSD and larceny of a television that was military property since neither condition interferes with the ability to distinguish between right and wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Adjustment Disorder and PTSD outweighed the AWOL, disrespect and larceny of government property basis for separation.

**b. Response to Contention(s):**

(1) The applicant contends since being discharged, they have had problems coping with PTSD and believes after a combat tour, they should have been allowed the chance to seek medical and mental help with the VA to cope with their problems. The Board considered this contention and determined the applicant is diagnosed with PTSD and the xxx basis for separation is mitigated by the applicant's PTSD, however the applicant's misconduct of larceny is not mitigated by the PTSD diagnosis. Ultimately the board voted to upgrade the applicant's characterization of service to General, Under Honorable Conditions.

(2) The applicant contends good service, including a sixteen-month combat tour. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record.

(3) The applicant contends an upgrade of the discharge would allow veterans benefits. 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.

**c.** The Board determined that the characterization of service was inequitable based on the applicant's Adjustment Disorder and PTSD outweighing the AWOL, disrespect and larceny of government property basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General Under Honorable Conditions. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service. However, the applicant may request a personal appearance hearing to address further issues before a Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to General, Under Honorable Conditions because the applicant's Adjustment Disorder and PTSD

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outweighed the applicant's AWOL, disrespect and larceny of government property basis for separation. 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. The reason the applicant was discharged was both proper and equitable as the unmitigated misconduct constituted a serious offense.

(3) The RE code will not change due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

**10. BOARD ACTION DIRECTED:**

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

**Authenticating Official:**

2/25/2025



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