

**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, illegally and improperly discharged after failing a drug test. The applicant was clearing the unit and was drug tested while out-processing. During the test they openly admitted to substance abuse and came forward to the superiors. The applicant was kicked out without a hearing and rehabilitation. The applicant was 26 years old and suffering from PTSD, which at the time they did not know they had this condition.

**b. Board Type and Decision:** In a records review conducted on 7 November 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Adjustment Disorder, Depressive Disorder NOS, and self-asserted Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** NIF / AR 135-178 / NIF / NIF / NIF / Under Other Than Honorable Conditions

**b. Date of Discharge:** 21 May 2011

**c. Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file.

**(1) Date of Notification of Intent to Separate:** NIF

**(2) Basis for Separation:** NIF

**(3) Recommended Characterization:** NIF

**(4) Legal Consultation Date:** NIF

**(5) Administrative Separation Board:** NIF

**(6) Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20210000624**

**a. Date / Period of Enlistment:** 8 January 2007 / The applicant was released from Active duty and transferred to the USAR Control Group to complete the remainder of the Reserve Obligation, with a termination date of 14 August 2011.

**b. Age at Enlistment / Education / GT Score:** 22 / High School Transcript / 87

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92Y10, Unit Supply Specialist / 7 years, 4 months, 8 days

**d. Prior Service / Characterizations:** RA, 8 January 2004 – 7 January 2007 / HD

**e. Overseas Service / Combat Service:** SWA / Iraq (15 July 2005 – 10 January 2006)

**f. Awards and Decorations:** ARCOM, MUC, AGCM, NDSM, GWOTEM, GWOTSM, ASR, OSR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Certificate of Release or Discharge from Active Duty reflects the applicant was discharged on 7 January 2007 from active duty and transferred to the USAR Control Group. The Reserve Obligation Termination Date reflects 14 August 2011. The applicant had completed the first full term of service.

Orders 11-136-00064, 16 May 2011, reflects the applicant was to be reduced in grade of rank from SPC to PV1, effective date 16 May 2011; and to be discharged from the United States Army Reserve with an under other than honorable conditions discharge effective 21 May 2011

**i. Lost Time / Mode of Return:** None

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** Online application; Orders 11-136-00064; 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 135-178 (Enlisted Administrative Separations), sets forth 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 and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons. The separation policies throughout

the different Chapters in this regulation promote the readiness of the Army by providing an orderly means to judge the suitability of persons to serve on the basis of their conduct and their ability to meet required standards of duty performance and discipline. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, and convictions by civil authorities.

(1) Paragraph 2-7, prescribes possible characterizations of service include an honorable, general (under honorable conditions), under other than honorable conditions, or uncharacterized if the Soldier is in entry-level status. However, the permissible range of characterization varies based on the reason for separation.

(2) Paragraph 2-8, prescribes the characterization is based upon the quality of the Soldier's service, including the reason for separation, and determined in accordance with standards of acceptable personal conduct and performance of duty as found in the UCMJ, Army regulations, and the time-honored customs and traditions of the Army. The reasons for separation, including the specific circumstances that form the basis for the discharge are considered on the issue of characterization.

**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) is void of the specific facts and circumstances concerning the events which led to the discharge from the Army Reserve. The applicant's AMHRR does contain a properly constituted discharge order: Orders 11-136-00064, 16 May 2011. The orders indicate the applicant was discharged under the provisions of AR 135-178, with a characterization of service of under other than honorable conditions.

The applicant contends illegally and improperly discharged after failing a drug test. The applicant was out-processing and openly admitted to substance abuse and came forward to the superiors. The applicant was kicked out without a hearing board and without rehabilitation. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. AR 135-178, paragraph 2-4d(2) and (3), states the rehabilitative requirements may be waived by the separation authority in circumstances where further duty of the Soldier would create serious disciplinary problems, or create a hazard to the military mission or to the Soldier or would seriously affect unit readiness; or further duty of the Soldier would be inappropriate because rehabilitation would not produce the quality Soldier desired by the USAR.

The applicant contends suffering from PTSD which at the time they did not know they had. 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 does not include any medical documents.

## **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, Depressive Disorder NOS.

Additionally, the applicant asserts PTSD, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist or experience occur during military service? The Board found that the applicant was diagnosed with an Adjustment Disorder and Depressive Disorder NOS during military service. The applicant also self-asserts PTSD during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions mitigate the discharge. It is mitigated due to the nexus between Depressive Disorder NOS, self-asserted PTSD, and self-medicating with substances.

(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 Depressive Disorder and self-asserted Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse.

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

(1) The applicant contends suffering from PTSD which at the time they did not know they had. The Board liberally considered this contention and determined that the applicant's Depressive Disorder and self-asserted Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse.

(2) The applicant contends illegally and improperly discharged after failing a drug test. The applicant was out-processing and openly admitted to substance abuse and came forward to the superiors. The applicant was kicked out without a hearing board and without rehabilitation. The Board did not address this contention due to the applicant's Depressive Disorder and self-asserted Post Traumatic Stress Disorder already outweighed the applicant's illegal substance abuse.

**c.** The Board determined that the characterization of service was inequitable based on the applicant's Depressive Disorder and self-asserted Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense. 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 Depressive Disorder and self-asserted Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse offense. 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:**

11/13/2024



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