

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, the discharge was improper because the applicant was undergoing medical treatment for conditions which occurred during their deployment to Afghanistan. The applicant claims they have post-traumatic stress disorder (PTSD) and they were never given the chance to consult with legal counsel. In addition, the applicant claims they were denied an exit medical exam, which would have verified their PTSD. The applicant claims the Albuquerque Veterans Center and the Albuquerque VA Hospital later verified their diagnosis of PTSD.

b. Board Type and Decision: In a records review conducted on 24 October 2024, 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 and TBI outweighing the applicant's Unsatisfactory Participation. 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 / General (Under Honorable Conditions)

b. Date of Discharge: 1 September 2004

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:

- a. Date / Period of Enlistment:** 17 February 2000 / 6 years
- b. Age at Enlistment / Education / GT Score:** 28 / some college / NIF
- c. Highest Grade Achieved / MOS / Total Service:** E-6 / 77L30 Petroleum Laboratory Specialist / 13 years, 5 months, 19 days
- d. Prior Service / Characterizations:** USAR, 13 March 1991 – 16 March 1999 / NA
IADT, 22 May 1991 – 6 September 1991 / HD
(Concurrent Service)
- e. Overseas Service / Combat Service:** SWA / Afghanistan/Uzbekistan (4 June 2002 – 4 March 2003)
- f. Awards and Decorations:** ARCOM, AAM, NDSM, AFRMMD, NCOPDR-2, ASR, OSR, ACM-BS, GWOTSM, ARCOTR
- g. Performance Ratings:** July 2000 – June 2001 / Among the Best
April 2002 – March 2003 / Fully Capable
- h. Disciplinary Action(s) / Evidentiary Record:** Orders 04-245-00034, 1 September 2004, reflect the applicant would be discharged on 1 September 2004, from the United States Army Reserve with a general (under honorable conditions) discharge.
- i. Lost Time / Mode of Return:** None
- j. Behavioral Health Condition(s):**

(1) Applicant provided: The documents in support of the applicant's application were not available for review.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge.

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 04-245-00034, 1 September 2004. The orders indicate the applicant was discharged under the provisions of AR 135-178, with a characterization of service of general (under honorable conditions) discharge.

The applicant contends having PTSD and their discharge was improper because the applicant was undergoing medical treatment for conditions which occurred during their deployment to Afghanistan. The applicant contends the Albuquerque Veterans Center and the Albuquerque VA Hospital, later verified their diagnosis of PTSD. The applicant's medical records noted in the application were not available for review. The AMHRR is void of a mental status evaluation.

The applicant contends they were not afforded counsel and were not given an exit exam. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

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: PTSD, TBI.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found evidence of PTSD and TBI existing 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. Given the nexus between PTSD, TBI, and avoidance, the applicant's BH conditions mitigate missing drills.

(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 and TBI outweighed the applicant's Unsatisfactory Participation.

b. Response to Contention(s):

(1) The applicant contends having PTSD and their discharge was improper because the applicant was undergoing medical treatment for conditions which occurred during their deployment to Afghanistan. The applicant contends the Albuquerque Veterans Center and the Albuquerque VA Hospital, later verified their diagnosis of PTSD. The Board liberally considered this contention and determined the applicant's Post Traumatic Stress Disorder and TBI outweighed the applicant's Unsatisfactory Participation.

(2) The applicant contends they were not afforded counsel and were not given an exit exam. 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 and TBI outweighing the applicant's Unsatisfactory Participation.

c. The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder and TBI outweighing the applicant's 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 and TBI outweighed the applicant's Unsatisfactory Participation. Thus, the prior characterization is no longer appropriate.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

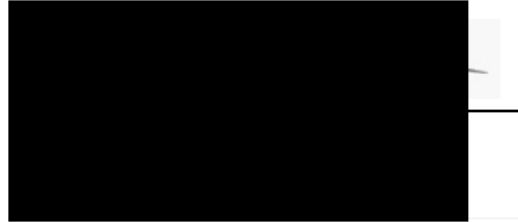
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10. BOARD ACTION DIRECTED:

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

Authenticating Official:

11/13/2024



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