

**1. Applicant's Name:**

- 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 period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and a change to Secretarial Authority narrative reason for separation.

The applicant seeks relief contending, in effect, a good person and spouse, and a conscientious citizen. Despite the challenges and pitfalls caused by their less than honorable discharge from the United States Army, the applicant managed to succeed and learn from their past mistakes. By doing so, the applicant has entered a new phase in their life and, after seven years, is not the same person who served at Fort Bragg. For all the reasons listed in this application, the applicant requests their discharge be upgraded to allow them to look back at their military service and not be ashamed. After all, when the applicant entered the United States Army, they did so with the best intentions to improve themselves and their country. With the same good intentions, and now a more mature mental and emotional outlook, the applicant humbly asks this Board to grant them the relief they request and, more importantly, deserves. Counsel further details the contentions in an allied legal brief provided with the application.

**b. Board Type and Decision:** In a records review conducted on 14 November 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*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:** Misconduct (AWOL) AR 635-200, Chapter 14-12c (1) / JKD / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 14 March 2007

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 6 February 2007

**(2) Basis for Separation:** Under the provisions of AR 635-200, Chapter 14-12c, Commission of a Serious Offense, the applicant was informed of the following reasons: Absence without leave from 30 October 2006 until 30 November 2006.

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

**(4) Legal Consultation Date:** 6 February 2007

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

**(6) Separation Decision Date / Characterization:** On 23 February 2007, the separation authority approved the applicant's separation under the provisions of AR 635-200, Chapter 14-12c, Commission of a Serious Offense. / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 27 September 2005 / NIF / The Commander's Report reflects five years.

**b. Age at Enlistment / Education / GT Score:** 20 / High School Graduate / 127

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 11B1P, Infantryman / 1 year, 4 months, 18 days

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

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** NDSM, GWOTSM, ASR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 24 January 2007, for on or about 30 October 2006, without authority, absent oneself from their unit of duty and did remain so absent until on or about 30 November 2006. The punishment consisted of a reduction to E-1; forfeiture of \$650 pay per month for two months and extra duty and restriction 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 30 October 2006; and

From AWOL to PDY, effective 30 November 2006.

Developmental Counseling Form, for AWOL.

**i. Lost Time / Mode of Return:** 30 days (AWOL, 30 October 2006 – 29 November 2006) / NIF

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

**(1) Applicant provided:** Report of Mental Status Evaluation (MSE), 24 December 2006, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. There is no evidence of an emotional or mental disorder of psychiatric significance to warrant disposition through medical channels.

**(2) AMHRR Listed:** MSE as described in previous paragraph 4j(1).

A request for administrative discharge report from Edmunds and Claery, LLP, 8 November 2006, reflects the applicant was diagnosed with a clinical disorder Axis I, Personality Disorders

Axis II, and Narcissistic Personality Disorder with Schizoid Personality Traits; Avoidant Personality Traits and Depressive Personality Features.

*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; lawyers brief; six letters of support and the separation file.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant works as a sales representative at Xerox and supervises a team of seven personnel.

**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 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) 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.

(4) 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.

(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(1) allows for an absentee returned to military control from a status of absent without leave or desertion to be separated for commission of a serious offense.

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 "JKD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c(1), misconduct (awol).

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 not being in the right mental state to benefit the Army. The applicant provided a Report of Mental Status Evaluation, 24 December 2006, reflecting the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. There was no evidence of an emotional or mental disorder of psychiatric significance to warrant disposition through medical channels. The AMHRR reflects a request for administrative discharge report from Edmunds and Claery, LLP, 8 November 2006, reflecting the applicant was diagnosed with a clinical disorder Axis I, Personality Disorders Axis II, and Narcissistic Personality Disorder with Schizoid Personality Traits; Avoidant Personality Traits and Depressive Personality Features. Also, a Report of Mental Status Evaluation, 24 December 2006, reflecting the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. There is no evidence of an emotional or mental disorder of psychiatric significance to warrant disposition through medical channels. All the medical documents in the AMHRR were considered by the Separation Authority.

The applicant contends was not given the opportunity at rehabilitation. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. Army Regulation 635-200, paragraph 1-17d(2), entitled counseling and rehabilitative requirements, states the separation authority may waive the rehabilitative requirements in circumstances where common sense and sound judgment indicate such a transfer will serve no useful purpose or produce a quality Soldier.

The applicant contends the event which led to the discharge from the Army was an isolated incident. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are

circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends an upgrade would allow 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 a general discharge is disproportionately severe and causes stigma for the applicant. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. 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 indicates the applicant received an FG Article 15, for on or about 30 October 2006, without authority, absent oneself from their unit of duty and did remain so absent until on or about 30 November 2006. The punishment consisted of a reduction to E-1; forfeiture of \$650 pay per month for two months and extra duty and restriction for 45 days. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The AMHRR shows the applicant met entrance qualification standards to include age.

The third-party statements provided with the application reflect the applicant's desire to be change, integrity and work ethic.

The applicant contends obtaining employment at xerox and supervises a team of seven personnel. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

## **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.

(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.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board determined, based on the Board Medical Advisor's opine, that the applicant's behavioral health conditions do not mitigate the discharge. An Adjustment Disorder does not provide mitigation for AWOL because it is a low-level temporary difficulty coping with stressors that does not have a nexus with avoidance or impair an individual's ability to understand right from wrong and make

purposeful choices knowing consequences. None of the available documentation suggests that there were any other mitigating BH conditions that went undiagnosed in service. On the contrary, a psychological evaluation from October 2006 indicated that the applicant's primary difficulties were related to maladaptive patterns of behavior not associated with any mitigating BH conditions. As such, there is no mitigation for the AWOL that led to the applicant's separation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder outweighed the medically unmitigated separating AWOL offense.

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

(1) The applicant contends not being in the right mental state to benefit the Army. The Board liberally considered this contention and determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder outweighed the medically unmitigated separating AWOL offense.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and found insufficient mitigating factors to warrant a change from the applicant's Misconduct (AWOL) narrative reason for separation.

(3) The applicant contends not being given the opportunity at rehabilitation. The Board considered this contention and found it unsupported by the current evidentiary record. As such, the AWOL offense was of a severity to warrant separation, even without granting an opportunity for rehabilitation, if that was in fact the case.

(4) The applicant contends the event which led to the discharge from the Army was an isolated incident. The Board considered this contention and determined that the applicant going AWOL for 30 days is misconduct warranting separation.

(5) The applicant contends an upgrade would allow 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.

(6) The applicant contends a general discharge is disproportionately severe and causes stigma for the applicant. The Board considered this contention and found that a general discharge is an appropriate characterization of service for the offense of going AWOL for 30 days.

(7) The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The Board considered this contention and found that the applicant met minimum age requirement for enlistment. There was no evidence that the applicant was not provided sufficient access to behavioral health and/or other resources. Therefore, a discharge upgrade is not warranted.

(8) The applicant contends obtaining employment at Xerox and supervises a team of seven personnel. The Board considered the applicant's post-service accomplishments and determined that they do not outweigh the severity of the unmitigated AWOL separating offense.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. The applicant has exhausted all available appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. 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 not to change the applicant's characterization of service because, despite applying liberal consideration to all evidence before the Board, the applicant's Adjustment Disorder did not outweigh the medically unmitigated AWOL offense. The Board also considered the applicant's contentions regarding the misconduct being an isolated incident and not being given an opportunity for rehabilitation and found that the totality of the current evidentiary record does not warrant a discharge upgrade. The applicant did not present any issues of impropriety for the Board's consideration. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the awarded General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an Honorable characterization.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts. The reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change given the BH diagnosis and misconduct. The current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order: No
- b. Change Characterization to: No Change
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

**Authenticating Official:**

11/20/2024

X

Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**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



# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

**AR20210000664**

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