

**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 general (under honorable conditions). The applicant, through counsel, requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the discharge was invalid, procedurally improper, and inequitably harsh. Before the events which led to the separation, the applicant had a spotless disciplinary record and strong record of Army service. The applicant struggled with depression and focus after returning from deployment, which became particularly debilitating after the suicide death of their closest friend. While grieving and struggling, the applicant exceeded the permitted number of absences for the Army Reserve duty, prompting the command to initiate separation procedures. The applicant returned to drills and sought help, and the command focused on rehabilitating the applicant. The former battalion commander timely requested the discharge paperwork be revoked so the applicant could be retained. The applicant's first line supervisor informed the applicant the paperwork had been rescinded; however, the HR NCO improperly denied the battalion commander's timely request, which is the reason the applicant was not retained for further service. 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 8 October 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Depressive Disorder outweighing the Unsatisfactory Participation discharge. 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 details 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:**

**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:** 26 August 2005 / 8 years

**b. Age at Enlistment / Education / GT Score:** 19 / High School Transcript / NIF

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 31B10, Military Police / 6 years, 14 days

**d. Prior Service / Characterizations:** USAR, 26 August 2005 – 9 September 2011 / NA  
IADT, 13 September 2005 – 23 February 2006 / HD  
(Concurrent Service)  
AD, 6 May 2006 – 22 September 2007 / HD  
(Concurrent Service)

**e. Overseas Service / Combat Service:** SWA / Iraq (2 September 2006 – 27 August 2007)

**f. Awards and Decorations:** ARCOM, AGCM, NDSM, GWOTSM, ICM, ASR, OSR, AFRMM-D

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Orders 11-245-00040, 2 September 2011, reflect the applicant was to be discharged on 9 September 2011 from the United States Army Reserve.

The applicant provided emails which reflect on 9 September 2011, MSG M. B., SR HR NCO stated the recovery letter was dated after the discharge date, the Soldier CANNOT be recovered. If the Soldier wishes to rejoin they can see the recruiter.

Orders 15-231-0012, 19 August 2015, reflect Orders 11-245-00040 were revoked.

Orders 15-231-00007, 19 August 2015, reflect the applicant was to be discharged on 9 September 2011 from the United States Army Reserve with a general (under honorable conditions) characterization.

**i. Lost Time / Mode of Return:** NIF

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

**(1) Applicant provided:** East Los Angeles Veterans Center letter, 21 October 2013, reflects the applicant had been referred for on-going counseling to assist the applicant in

managing depression and other mental health issues. The letter reflects the applicant's condition.

**(2) AMHRR Listed:** None

*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; legal brief with listed exhibits.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has graduated from the University of Massachusetts Lowell with a dual bachelor's degree in criminal justice and political science in 2012. The applicant is fluent in the Vietnamese language.

**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), the issues, and documents submitted with the application were carefully reviewed.

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 15-231-00007, 19 August 2015. The orders indicate the applicant was discharged under the provisions of AR 135-178, with a characterization of service of general (under honorable conditions).

The applicant requests a narrative reason change. Orders are published when service members are discharged from the U.S. Army Reserve, which indicate the effective date and characterization of the discharge. Narrative reasons usually are not included in the order. In insomuch as the applicant's discharge order does not have this element, the ADRB has no basis for changing the discharge order.

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

The applicant contends they struggled with depression and focus after returning from deployment, which became particularly debilitating after the suicide death of the closest friend. The applicant provided East Los Angeles Veterans Center letter, 21 October 2013, which reflects the applicant had been referred for on-going counseling to assist the applicant in managing depression and other mental health issues. The letter reflects the applicant's condition. The AMHRR does not include a Mental Status Evaluation (MSE).

The applicant contends while grieving and struggling, the applicant exceeded the permitted number of absences for the Army Reserve duty, prompting the command to initiate separation procedures. The applicant returned to drills and sought help, and the command focused on rehabilitating the applicant. The former battalion commander timely requested the discharge paperwork be revoked so the applicant could be retained. The applicant's first line supervisor informed the applicant the paperwork had been rescinded; however, the HR NCO improperly denied the battalion commander's timely request, which is the reason the applicant was not retained for further service. The applicant provided emails which reflect on 9 September 2011, MSG M. B., SR HR NCO stated the recovery letter was dated after the discharge date, the Soldier could not be recovered. If the applicant wanted to rejoin, they could see the recruiter. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The third- party statements provided with the application are from the applicant's former chain of command and reflect the applicant's character, hard work and honorable service while serving. The statements also reflect how the applicant had returned to the unit and was in the process of being retained; however, the discharge was processed when the command had asked for it to be revoked.

The applicant requests the rank of E-4 be restored. The applicant's requested change does not fall within this board's purview. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

The applicant has graduated from the University of Massachusetts Lowell with a dual bachelor degree in criminal justice and political science in 2012. The applicant is fluent in the Vietnamese language. 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 found, based on the Board Medical Advisor's opine, a review of the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation, that the applicant has the following potentially mitigating diagnoses/experiences: Unspecified Depressive Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found that, based on the Board Medical Advisor's opine, the available information supports the applicant met criteria for Unspecified Depressive Disorder with onset after deployment.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board determined, based on the BMA's opine, that the applicant's behavioral health condition mitigates the misconduct. The available information indicates the applicant more likely than not met criteria for Unspecified Depressive Disorder at the time of the misconduct. Given the nexus between Unspecified Depressive Disorder and withdrawal, social isolation, and amotivation, the unsatisfactory participation in battle assembly is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the Depressive Disorder outweighed the Unsatisfactory Participation.

b. Response to Contention(s):

(1) The applicant contends they struggled with depression and focus after returning from deployment, which became particularly debilitating after the suicide death of the closest friend. The Board liberally considered this contention and determined that the applicant's Depressive Disorder outweighed the applicant's Unsatisfactory Participation. Therefore, a discharge upgrade is warranted.

(2) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the Depressive Disorder outweighing the applicant's Unsatisfactory Participation.

(3) The applicant contends while grieving and struggling, the applicant exceeded the permitted number of absences for the Army Reserve duty, prompting the command to initiate separation procedures. The applicant returned to drills and sought help, and the command focused on rehabilitating the applicant. The former battalion commander timely requested the discharge paperwork be revoked so the applicant could be retained. The applicant's first line supervisor informed the applicant the paperwork had been rescinded; however, the HR NCO improperly denied the battalion commander's timely request, which is the reason the applicant was not retained for further service. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the Depressive Disorder outweighing the applicant's Unsatisfactory Participation.

(4) The applicant requests the rank of E-4 be restored. The Board determined that the applicant's request for restoration of rank does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding this matter. A DD Form 293 may be obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization

(5) The applicant has graduated from the University of Massachusetts Lowell with dual bachelor's degrees in criminal justice and political science in 2012. The applicant is fluent in the Vietnamese language. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the Depressive Disorder outweighing the applicant's Unsatisfactory Participation.

c. The Board determined that the characterization of service was inequitable based on the applicant's Depressive Disorder outweighing the Unsatisfactory Participation discharge. 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 diagnosed Depressive Disorder outweighed the applicant's 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:**

10/29/2024



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