

**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, at the time the applicant stopped completing drills, the spouse and applicant were separated, and the spouse took the applicant's vehicle away. The spouse put the applicant and child out of the house, and they were living in a shelter. The child was already severely asthmatic and started getting worse. The applicant's parent found out they were in a shelter, and it affected the parent's health, and they were in and out of the hospital as well. The applicant became severely depressed and was not eating or sleeping and crying all the time. The doctor diagnosed the applicant with PTSD and depression. Since this time, the applicant has gotten back on their feet, the child and parent are doing great. They are no longer in a shelter, before all of this, the applicant was a great Soldier.

b. **Board Type and Decision:** In a records review conducted on 7 September 2023, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Depressive Disorder mitigating the applicant's missing drill assembly on several occasions. 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 / General (Under Honorable Conditions)

b. **Date of Discharge:** 9 April 2008

c. **Separation Facts:**

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

(2) **Basis for Separation:** The applicant failed to attend at least nine Army Reserve Battle Assemblies within a one-year period and failed to provide a valid excuse for the absence.

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

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

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

**(6) Separation Decision Date / Characterization:** Undated / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 22 September 1997 / 8-year MSO (6 years with TPU and 2 years with IRR) / The AMHRR is void of any enlistment contract retaining the applicant on duty with the USAR after the initial enlistment period.

**b. Age at Enlistment / Education / GT Score:** 23 / Associate Degree / 86

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 88T20, Railway Section Repairer / 10 years, 6 months, 18 days

**d. Prior Service / Characterizations:** USAR, 22 September 1997 – 28 October 1997 / NA IADT, 29 October 1997 – 27 February 1998 / UNC (Concurrent Service)

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

**f. Awards and Decorations:** ASR

**g. Performance Ratings:** June 2004 – May 2005 / Fully Capable  
June 2005 – May 2006 / Fully Capable  
1 June 2006 – 31 May 2007 / Marginal

**h. Disciplinary Action(s) / Evidentiary Record:** Affidavit of Service by Mail, 14 January 2008, notice of unexcused absence, reflects a mailed notification, 14 January 2008, to the applicant was sent via US Mail to the last known address.

Memorandum, 14 January 2008, reflects the applicant had not attended the parent units Battle Assembly Training in over six months. The applicant was classified as a Reserve Non-Participant. The applicant was ordered to one day Annual Training on 24 January 2008.

Order Number 035489, 14 January 2008, reflects the applicant was ordered to annual training for one duty day on 24 January 2008.

Developmental Counseling Form, 14 January 2008, reflects on 14 January 2008, SFC B. and the applicant discussed the reason the applicant decided to separate from the Army Reserve TPU and the benefits the applicant would lose upon separation. The applicant decided to separate from the TPU due to unsatisfactory participant, Soldier failed to attend BA or attend annual training. All means of contacting the Soldier had been exhausted.

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

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

**(1) Applicant provided:** History & Physical Report #4, 10 January 2007, reflects the applicant was diagnosed with Depressive Disorder, Not elsewhere Classified (311.) and Anxiety State, Unspecified (300.00) and prescribed medication.

LeChris Comprehensive Clinical Assessment, 8 January 2015, reflects the applicant was diagnosed with Post-Traumatic Stress Disorder and Major Depressive Disorder, Recurrent, Moderate.

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; three third-party letters; medical records.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant teaches a young person's class at the church, goes to school online, works full time and is a great parent. The applicant is working towards a degree in counseling for battered people. The applicant also volunteers at the local shelter and serves at the USO in the soup line.

**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 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) includes partial 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 15-317-00001, 13 November 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 contends family issues affected behavior and ultimately caused the discharge. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends good service.

The applicant contends being severely depressed and being diagnosed with PTSD and depression. The applicant provided a copy of History & Physical Report #4, 10 January 2007, which reflects the applicant was diagnosed with Depressive Disorder, Not Elsewhere Classified (311.) and Anxiety State, Unspecified (300.00) and prescribed medication. LeChris Comprehensive Clinical Assessment, 8 January 2015, which reflects the applicant was diagnosed with Post-Traumatic Stress Disorder and Major Depressive Disorder, Recurrent, Moderate. The AMHRR does not contain a mental status evaluation.

The third-party statements provided with the application speak highly of the applicant. They all recognize the applicant's good conduct while serving and after leaving the Army Reserve.

The applicant teaches a young person's class at the church, goes to school online, works full time and is a great parent. The applicant is working towards a degree in counseling for battered people. The applicant also volunteers at the local shelter and serves at the USO in the soup line. 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'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: Depressive Disorder NOS/Major Depressive Disorder, Unspecified Anxiety, and PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found evidence that the applicant was being actively treated for Depressive Disorder NOS and Unspecified Anxiety around the time that applicant began missing drill. Applicant's PTSD is related to childhood abuse without any evidence of exacerbation by military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that, given the nexus between Depression, avoidance, and decreased motivation, it is likely that applicant's Depressive Disorder contributed to 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 Depressive Disorder NOS/Major Depressive Disorder outweighed the missing drill basis for separation for the aforementioned reasons.

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

(1) The applicant contends family issues affected behavior and ultimately caused the discharge. The Board considered this contention and determined that the Army affords many services for assistance to Soldiers including seeking separation for hardship.

(2) The applicant contends good service. 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 depressive disorder fully outweighing the applicant's missing drill assembly on several occasions basis for separation.

(3) The applicant contends being severely depressed and being diagnosed with PTSD and depression. The Board determined that this contention was valid and voted to upgrade the characterization of service due to PTSD and Depressive Disorder diagnosis potentially mitigating the applicant's missing drills.

(4) The applicant teaches a young person's class at the church, goes to school online, works full time and is a great parent. The applicant is working towards a degree in counseling for battered people. The applicant also volunteers at the local shelter and serves at the USO in the soup line. 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 depressive disorder fully outweighing the applicant's missing drill assembly on several occasions basis for separation.

**c.** The Board determined that the characterization of service was inequitable based on the applicant's Depressive Disorder mitigating the applicant's missing drill assembly on several occasions. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. However, the applicant may request a personal appearance hearing to address further issues before the 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 Honorable because the applicant's Depressive Disorder mitigated the applicant's misconduct of missing drill assembly on several occasions. 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 as the reason the applicant was discharged was both proper and equitable.

(3) The applicant was in the Army Reserves; therefore, there is no reentry code supplied upon discharge, honorable or otherwise.

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

**AR20210000840**

**10. BOARD ACTION DIRECTED:**

- a. Issue a New Separation Order: Yes
- b. Change Characterization to: Honorable
- c. Change Authority to: No Change

**Authenticating Official:**

12/29/2023

<b>X</b>	
<b>Presiding</b>	

**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