

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 under other than honorable conditions. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, making a mistake by abusing a controlled substance, and was placed on probation, and completed the Army Substance Abuse Program. The applicant states had they deployed to Afghanistan with their unit, they would have escaped their problems at home. The applicant claims they experienced depression while their unit was deployed to Afghanistan and decided to self-medicate by using marijuana for the second time to treat their depression. The applicant claims their peers and leadership can attest the use of narcotics never interfered with the applicant's ability to perform their military duties. The applicant claims they have sacrificed a great amount for the Army, and they do not want whatever they did in their personal life to adversely affect their standing in the Army. Although the applicant should be punished for misusing an illegal substance, they have learned their lesson and do not want this error to destroy their life going forward.

b. **Board Type and Decision:** In a records review conducted on 25 July 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:** NIF / AR 135-178 / NIF / NIF / NIF / Under Other Than Honorable Conditions

b. **Date of Discharge:** 4 August 2014

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:** 14 January 2010 / 6 years
- b. Age at Enlistment / Education / GT Score:** 19 / some college / NIF
- c. Highest Grade Achieved / MOS / Total Service:** E-4 / 68W10, Health Care Specialist / 4 years, 6 months, 22 days
- d. Prior Service / Characterizations:** USAR, 14 January 2010 – 9 March 2010 / NA
IADT, 10 March 2010 – 10 September 2010 / HD
(Concurrent Service)
- e. Overseas Service / Combat Service:** None
- f. Awards and Decorations:** NDSM, ASR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:** Orders 14-211-00044, 30 July 2014, reflects the applicant was reduced from E-4 to E-1, effective 29 July 2014, in accordance with AR 600-8-19 paragraph 10-15.
- i. Lost Time / Mode of Return:** None
- j. Behavioral Health Condition(s):**
 - (1) Applicant provided:** None
 - (2) AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: Two online applications; Orders 14-211-00044.

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.

(3) Paragraph 11-1a states, in pertinent part, the initiation of discharge proceedings is required in the case of a Soldier who has been referred to a program of rehabilitation for alcohol or drug abuse under the provisions of AR 600-85, and who fails, through inability or refusal to participate in, cooperate in, or successfully complete the program in the following circumstances: (1) There is a lack of potential for continued military service, (2) Long-term rehabilitation in a civilian medical facility is determined necessary, and (3) Rehabilitation failure includes Soldiers with a subsequent alcohol or drug-related incident of misconduct at any time during the 12-month period following successful completion of the Army Substance Abuse Program or during the 12-month period following removal from the program. Soldiers with a subsequent alcohol or drug-related incident of misconduct at any time during the 12-month period following successful completion of the Army Substance Abuse Program, or during the 12-month period following removal from the program for any reason, will be processed for separation as an alcohol or drug abuse rehabilitation failure.

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 14-211-00044, 30 July 2014. 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 they experienced depression during their unit's deployment to Afghanistan and decided to self-medicate by using marijuana for the second time to treat their depression. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. 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 AMHRR is void of a mental status evaluation.

The applicant contends their peers and leadership can attest the use of narcotics never interfered with the applicant's ability to perform their military duties. The applicant claims they have sacrificed a great amount for the Army, and they do not want whatever they did in their personal life to adversely affect their standing in the Army. Although the applicant should be punished for misusing an illegal substance, they have learned their lesson and do not want this error to destroy their life going forward. The applicant did not submit any evidence, other than

the applicant's statement, to support the contention. Army Regulation 135-178, paragraph 11-1 reflects Soldiers with a subsequent alcohol or drug-related incident of misconduct at any time during the 12-month period following successful completion of the Army Substance Abuse Program, or during the 12-month period following removal from the program for any reason, will be processed for separation as an alcohol or drug abuse rehabilitation failure.

The applicant contends good service.

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: None. Additionally, the applicant asserts Depression, 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? **Yes.** The Board's Medical Advisor found that the applicant self-asserts Depression during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor could not opine, even with liberal consideration of all the evidence, whether or not the applicant's asserted in-service Depression, or other medical condition is a mitigating factor for the applicant's basis for separation without knowing the actual basis of separation.

(4) Does the condition or experience outweigh the discharge? **N/A.**

b. Response to Contention(s):

(1) The applicant contends they experienced depression during their unit's deployment to Afghanistan and decided to self-medicate by using marijuana for the second time to treat their depression. The Board considered this contention and the applicant's assertion of depression; however, the Board could not determine whether the applicant's asserted depression actually outweighed the applicant's misconduct without knowing the facts and circumstances relating to the applicant's discharge and the Board Medical Advisor determination on medical mitigation. Without additional medical evidence and the basis for separation, the Board was unable to determine if the applicant's asserted depression outweighed the applicant's discharge.

(2) The applicant contends their peers and leadership can attest the use of narcotics never interfered with the applicant ability to perform their military duties. The applicant claims they have sacrificed a great amount for the Army, and they do not want whatever they did in their personal life to adversely affect their standing in the Army. Although the applicant should be punished for misusing an illegal substance, they have learned their lesson and does not want this error to destroy their life going forward. The Board considered this contention and the applicant's assertion of depression; however, the Board could not determine whether the applicant's asserted depression actually outweighed the applicant's misconduct without knowing the facts and circumstances relating to the applicant's discharge and the Board Medical Advisor determination on medical mitigation. Without additional medical evidence and the basis for

separation, the Board was unable to determine if the applicant's asserted depression outweighed the applicant's discharge.

(3) The applicant contends good service. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record. However, the Board could not determine whether the applicant's good service actually outweighed the applicant's misconduct without knowing the facts and circumstances relating to the applicant's discharge and the Board Medical Advisor determination on medical mitigation.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the 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 not to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence before the Board, the Board could not determine if the applicant's asserted depression would excuse or mitigate the applicant's misconduct without knowing the facts and circumstances relating to the applicant's discharge. 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.

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

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000942

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:

1/10/2025

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

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