

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, being assigned to the unit to seek a medical discharge, the applicant fell through the cracks. The applicant never received any uniforms or equipment from the unit. The applicant attended one drill at this unit in an attempt to seek medical discharge. The applicant was told they had to sign in the unit before the medical discharge would be processed, and two weeks later, the applicant became homeless. The applicant struggled with homelessness for almost two years. The applicant discovered they had not been processed for a medical discharge, but for a discharge because of a lack of participation. It was never the applicant's intention not to attend drills or meetings. The affidavits, certified letters, and orders all have different addresses on them. The unit sent the certified letters to the wrong address. The applicant had no way of knowing of the unit's intention, or the applicant would have contacted the unit immediately concerning this matter. Before being assigned to this unit, the applicant proudly served the country with honor and valor. The Department of Veterans Affairs (VA) rated the applicant 50 percent disabled for traumatic brain injury (TBI), post-traumatic stress disorder (PTSD), and a back injury. The applicant was not to be around weapons, ammo, or wear body armor. The applicant received a Purple Heart, Combat Action Badge, other awards, assisted wounded Soldiers, and exposed to deadly viruses. The applicant desires to attend college to become a medical examiner / coroner. The mark on the applicant's military service record will affect their ability to maintain a successful career and provide for their family. It was never the applicant's intention to abandon their post. The applicant is a Soldier in need.

b. Board Type and Decision: In a records review conducted on 15 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, Major Depressive Disorder, and Traumatic Brain Injury 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: Unsatisfactory Participation / AR 135-178, Chapter 13 / NA / NA / General (Under Honorable Conditions)

b. Date of Discharge: 6 November 2012**c. Separation Facts:**

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(1) Date of Notification of Intent to Separate: 16 May 2012 / The applicant failed to respond to the notification of separation via certified mail.

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant was absent from at least nine Army Reserve training assemblies within a one-year period and failed to provide a valid reason for the absence. The applicant failed to attend 16 MUTA Battle Assemblies during 9 and 10 July 2011, 17 and 18 March 2012, 20 and 22 April 2012, and 5 and 6 May 2012.

On 16 May 2012, the applicant's commander caused the notification to be mailed to the applicant via certified mail, with a suspense of 45 days to acknowledge the notice and rights. The applicant provided no response to the memorandum of notification.

Commander's Report, 25 June 2012, reflects the applicant provided no response to the memorandum of notification.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: The applicant failed to respond to the notification of separation, thereby waiving right to counsel.

(5) Administrative Separation Board: The applicant failed to respond to the notification of separation, thereby waiving right to an administrative separation board.

(6) Separation Decision Date / Characterization: 24 October 2012 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 6 January 2011 / 2 years, 7 months, 17 days

b. Age at Enlistment / Education / GT Score: 23 / HS Graduate / 98

c. Highest Grade Achieved / MOS / Total Service: E-3 / 31B10, Military Police / 7 years, 2 months, 2 weeks

d. Prior Service / Characterizations: USAR, 23 August 2005 – 10 May 2006 / NA
ARNG, 11 May 2006 – 22 May 2008 / HD
AD, 23 July 2006 – 18 December 2007 / HD
(Concurrent Service)
USAR, 23 May 2008 – 20 October 2009 / NA
USARCG, 21 October 2009 – 5 January 2011 / NA

e. Overseas Service / Combat Service: SWA / Iraq (22 November 2006 – 7 June 2007)

f. Awards and Decorations: PH, NDSM, GWOTSM, ICM, ASR, OSR, AFRM-MD

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Commander's Report as described in previous paragraph 3c.

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Orders A-07-715278, 5 July 2007; Orders A-08-717117, 2 August 2007; and Orders A-10-721534, 26 October 2007, reflect the applicant was to be retained on active duty (prior service) to participate in the Reserve Component Warriors in Transition Medical Retention Program or the Reserve Component Medical Holdover Medical Retention Processing Program for completion of medical care and treatment. The orders were later revoked.

Letter of Instructions – Unexcused Absence, 18 July 2011, reflects the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

9 July 2011 (MUTA 1 and 2)
10 July 2011 (MUTA 1 and 2)

Affidavit of Service by Mail, reflects the notification, subject: Separation Proceedings Under AR 135-178, 18 July 2011, was mailed to the applicant via certified mail on 18 July 2011. The address numbers reflect, in pertinent part, xxx4, but the certified mail receipt reflects numbers xxx1, and the mail was unclaimed. The document appears to be the letter of instructions instead of the separation notification.

Letter of Instructions – Unexcused Absence, 21 March 2012, reflects the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

17 March 2012 (MUTA 1 and 2)
18 March 2012 (MUTA 1 and 2)

Affidavit of Service by Mail, 21 March 2012, reflects the notification, subject: Separation Proceedings Under AR 135-178, 21 March 2012, was mailed to the applicant via certified mail to the applicant's last known address on 21 March 2012. The applicant's last known address street number reflects, in pertinent part, xxx4, but the certified mail receipt reflects the notification was mailed to an address with a street number ending in xxx1, in the city and state of Huntsville, Alabama (AL), and the mail was returned to the sender. The document appears to be the letter of instructions instead of the separation notification.

Letter of Instructions – Unexcused Absence, 23 April 2012, reflects the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

20 April 2012 (MUTA 1 and 2)
21 April 2012 (MUTA 1 and 2)
22 April 2012 (MUTA 1 and 2)

Affidavit of Service by Mail, reflects the Notification, subject: Separation Proceedings Under AR 135-178, 23 April 2012, was mailed to the applicant via certified mail on 23 April 2012. The applicant's last known address street number reflects, in pertinent part, xxx4, but the certified mail receipt reflects the notification was mailed to an address with a street number ending in xxx1, in the city and state of Huntsville, Alabama AL, and the mail was unclaimed. The document appears to be the letter of instructions instead of the separation notification.

Letter of Instructions – Unexcused Absence, 7 May 2012, reflects the applicant was absent from a scheduled unit training assembly (UTA) or a multiple unit training assembly (MUTA) for the following periods:

5 May 2012 (MUTA 1 and 2)

6 May 2012 (MUTA 1 and 2)

Affidavit of Service by Mail, reflects the Notification, subject: Separation Proceedings Under AR 135-178, 7 May 2012, was mailed to the applicant via certified mail on 7 May 2012. The applicant's last known address street number reflects, in pertinent part, xxx4, but the certified mail receipt reflects the notification was mailed to an address with a street number ending in xxx1, in the city and state of Huntsville, AL, and the mail was unclaimed. The document appears to be the letter of instructions instead of the separation notification.

Affidavit of Service by Mail, reflects the Notification of Separation Under AR 135-178, Chapter 13, 16 May 2012, and DA Form 4856, Commander's Counseling Statement, were mailed to the applicant via certified mail on 16 May 2012. The address street number reflects, in pertinent part, xxx4, but the certified mail receipt reflects a street number ending in xxx1, in the city and state of Huntsville, AL, and the mail was unclaimed.

Numerous assignment or separation orders from 21 September 2009 to 4 February 2015, reflect the applicant's address, in pertinent part, street number ending in xxx1, in the city and state of Huntsville, AL; the same address reflected on the certified mail receipts. The orders prior to this period, reflect different addresses, including the city and state.

Two Developmental Counseling Forms, for unsatisfactory participation in the Ready Reserve, and pending separation for accumulated nine or more absences.

i. Lost Time / Mode of Return: NIF

j. Behavioral Health Condition(s):

(1) Applicant provided: Chronological Record of Medical Care, 23 May 2007, reflecting the applicant's problems as: costochondritis (Tietze's Syndrome); bulging intervertebral disc; lumbago; normal routine history and physical adult; concussion with no loss of consciousness; concussion; sinusitis; post-concussion syndrome. The applicant was diagnosed with adjustment disorder with anxiety; problems occupational; problems primary support group; and global assess of functioning (GAF) of 65.

CBHCO Medical Officer Intake Note, 13 August 2007, reflecting the applicant was involved in an improvised explosive device (IED) blast. The applicant was diagnosed with post-concussion syndrome and traumatic brain injury.

Department of Veterans Affairs, 31 January 2011, reflecting the VA rated the applicant 30 percent service-connected disabled for PTSD; 10 percent for mild facet arthropathy at L4-5, and L5-S1; and 10 percent for residual traumatic brain injury.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; separation records; Chronological Record of Medical Care; VA letter, Purple Heart Certificate; Citizens Baptist Medical Center medical documents; and other medical documents.

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), prescribes 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 of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) Paragraph 2-9a prescribes an honorable characterization 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.

(2) Paragraph 2-9b, prescribes, if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as general (under honorable conditions). Characterization of service as general (under honorable conditions) is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

(3) Chapter 12 (previously Chapter 13), provides in pertinent part, that individuals can be separated for being an unsatisfactory participant. Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because: The Soldier is an unsatisfactory participant as prescribed by AR 135-91, chapter 4; Attempts to have the Soldier respond or comply with orders or correspondence.

(4) Paragraph 12-3, prescribes characterization of service normally will be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted under the guidelines in Chapter 2, Section III. For Soldiers who have completed entry level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be inappropriate.

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 VA rated the applicant 50 percent disabled for TBI, PTSD, and a back injury. The applicant provided several medical documents indicating a diagnosis of PTSD; post-concussion syndrome; TBI; adjustment disorder with anxiety; problems occupational; problems primary support group; GAF of 65; post-concussion syndrome; and various back conditions. The VA rated the applicant 30 percent disabled for PTSD; 10 percent for residual TBI; and 10 percent for mild facet arthropathy. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends never being informed about the training or the imminent discharge because the command sent the certified letters to the wrong address. The evidence in the applicant's AMHRR shows the unit commander attempted to contact the applicant on several occasions and on 16 May 2012, mailed the discharge packet to the last known address via certified mail. In accordance with AR 135-178, paragraph 3-12, this failure to submit a reply

within 30 days of receipt of the notice constitutes a waiver of the right to respond. The applicant was provided 45 days to submit a reply. Army Regulation 135-178 stipulates a Soldier is subject to discharge for unsatisfactory participation. The determination a Soldier is unqualified for further military service for unsatisfactory participation is prescribed in Chapter 4, AR 135-91: attempts to have the Soldier respond or comply with orders or correspondence resulting in the Soldier's refusal to comply with such orders or correspondence; or a notice sent by certified mail was refused, unclaimed, or otherwise undeliverable, or verification the Soldier failed to notify the command of a change of address and reasonable attempts to contact the Soldier have failed. The evidence of the record shows the applicant had failed to submit a reply.

The applicant contends good service, including a combat tour.

The applicant contends seeking a medical discharge when they were assigned to the unit. The applicant's AMHRR reflects the applicant received orders to be retained on active duty between 5 July and 26 October 2007, to participate in the Reserve Component Warriors in Transition Medical Retention Program or the Reserve Component Medical Holdover Medical Retention Processing Program for completion of medical care and treatment, but the orders were revoked.

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 an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

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, MDD, TBI, Cognitive Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 50 percent SC for PTSD and has multiple in-service BH conditions.

(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 applicant's struggles with PTSD, MDD, TBI and homeless during this period, coupled with the asserted misunderstanding of the unit expectations, there is sufficient evidence to support the applicant's offense of unsatisfactory performance due to unexcused absences was mitigated.

(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, Major Depressive Disorder, and Traumatic Brain Injury outweighed the applicant's unsatisfactory participation.

b. Response to Contention(s):

(1) The VA rated the applicant 50 percent disabled for TBI, PTSD, and a back injury. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Traumatic Brain Injury outweighed the applicant's unsatisfactory participation. Therefore, a discharge upgrade is warranted.

(2) The applicant contends never being informed about the training or the imminent discharge because the command sent the certified letters to the wrong address. 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, Major Depressive Disorder, and Traumatic Brain Injury outweighing the applicant's unsatisfactory participation.

(3) The applicant contends good service, including a combat tour. 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, Major Depressive Disorder, and Traumatic Brain Injury outweighing the applicant's unsatisfactory participation.

(4) The applicant contends seeking a medical discharge when they were assigned to the unit. 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, Major Depressive Disorder, and Traumatic Brain Injury outweighing the applicant's unsatisfactory participation.

(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 an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

c. The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder, Major Depressive Disorder, and Traumatic Brain Injury 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, Major Depressive Disorder, and Traumatic Brain Injury outweighed the applicant's unsatisfactory participation. Thus, the prior characterization is no longer appropriate.

10. BOARD ACTION DIRECTED:

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

Authenticating Official:

10/16/2024



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