

**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 the under review is under other than honorable conditions. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, having a desire to attend an ROTC program at a state university and become an officer; and the applicant enlisted in the Army Reserve for educational benefits. Because the applicant was initially denied enlistment in the Marine Corps related to a medical history and having been diagnosed and treated for ADD/ADHD, depression, and anxiety, and prescribed medications previously, the recruiter advised the applicant to keep the information private and to use a new address. Following basic training, the applicant enrolled in university classes and participated in 212th Transportation Company drills. The applicant found the unit atmosphere as unprofessional and cliquy, and spent minimal time training on military skills, instead most of the time was spent standing around talking to one another. The applicant, who knew no one and with weak social skills, spent the time alone counting down the minutes until departure. After dropping out of school for personal reasons following the 2010 and 2011 academic year, and combined with the underlying mental and emotional issues, the applicant developed a severe drug addiction, which led to depression and suicidality. The applicant who was unwell, stayed to oneself, and was exceedingly uncomfortable with other people. In April 2012, the applicant missed an SRP drill in preparation for deployment but participated in drills with other 212th Soldiers linked to the 125th in Chattanooga for the next two months. The applicant was not compensated for those drills. Sergeant N. informed the applicant of having been returned to 212th and was counted absent. The applicant, who was depressed and high on drugs, was unable to complete the reimbursement forms. Frustrated by the lack of money and unable to think straight, the applicant quit attending drills. The applicant was never contacted about the absences. In February 2012, the applicant sought therapy at a therapy center and was prescribed medicine for bipolar disorder, social anxiety, and insomnia. The applicant became clean and was working on maintaining a life on track with two children under the age of two. To support them, the applicant works between 70 and 80 hours per week. A dishonorable discharge from the service plus a significant debt makes it impossible to support the family. The applicant believes the command failed because no one noticed the unusual behavior or absences. The recoupment of the enlistment bonus should be suspended until the discharge status is upgraded. There is no record of attending the two drills without payment, which demonstrate unprofessionalism and disorder in the military. If the unit leadership were capable and recognized one of their Soldiers was in serious need of assistance, everything could have been prevented. The applicant was ignored, and the life is now practically ruined. An unfair discharge has tainted the applicant's record and caused debt.

**b. Board Type and Decision:** In a records review conducted on 27 June 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:** 3 November 2013

**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:** 1 June 2010 / 8-year MSO

**b. Age at Enlistment / Education / GT Score:** 22 / some college / NIF

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 88M10, Motor Transport Operator / 3 years, 5 months, 3 days

**d. Prior Service / Characterizations:** USAR, 1 June 2010 – 6 July 2010 / NA  
IADT, 7 July 2010 – 12 November 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 13-302-00002, 29 October 2013, reflect the applicant was reduced in grade from E-4 to E-1 and discharged 3 November 2013 from the United States Army Reserve.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 149; self-authored statement; and Orders.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant sought treatment, became clean, and works between 70 and 80 hours per week to support two children.

**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 based on 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 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 13-302-00002, 29 October 2013. The orders indicate the applicant was discharged under the provisions of AR 135-178, with an under other than honorable conditions characterization of service.

The applicant contends having enlisted in the Army Reserve for educational benefits. Eligibility for veterans' 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 having an underlying mental and emotional issues led to a severe drug addiction, depression, and suicidality. The applicant contends the unit command failed to notice the unusual behavior and absences and the applicant was ignored. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The applicant's AMHRR contains no documentation of any behavioral health diagnosis.

The applicant's contentions about never being informed of the absences and the imminent discharge were considered. The applicant's AMHRR is void of the facts and circumstances surrounding the applicant's discharge; however, 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 applicant contends not being compensated for attending two drills with a separate unit; contends the recoupment of the enlistment bonus should be suspended until the discharge status is upgraded. The issues the applicant submitted are not a matter upon which the Army Discharge Review Board grants a change in discharge. The issues raise no matter of fact, law, procedure, or discretion related to the discharge process, nor are they associated with the discharge when it was issued. The applicant's request do 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 contends seeking treatment, becoming clean, and obtaining and maintaining an employment. 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: None. The applicant asserts Depression, Bipolar Disorder, and Social Anxiety, 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 having Depression, Bipolar Disorder, and Social Anxiety during military service.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant self-asserts having Depression, Bipolar Disorder, and Social Anxiety during military service which are potentially mitigating BH conditions. However, there is no evidence in the medical record or evidence provided by the applicant that the applicant was diagnosed or experienced symptoms of Depression, Bipolar Disorder, or Social Anxiety. Without medical evidence of the asserted Depression, Bipolar Disorder, or Social Anxiety, these asserted BH conditions do not provide any mitigation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the applicant's self-asserted Depression, Bipolar Disorder, and Social Anxiety outweighed the applicant's medically unmitigated unsatisfactory participation basis of separation.

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

(1) The applicant contends having underlying mental and emotional issues that led to a severe drug addiction, depression, and suicidality. The applicant contends the unit command failed to notice the unusual behavior and absences and the applicant was ignored. The Board liberally considered this contention and determined that the available evidence did not support a conclusion that the applicant's self-asserted Depression, Bipolar Disorder, and/or Social Anxiety outweighed the applicant's medically unmitigated unsatisfactory participation basis of separation. The current evidentiary record does not indicate malice or capricious intent/action by the command.

(2) The applicant contends having enlisted in the Army Reserve for educational benefits. The Board liberally considered this contention and determined that eligibility for Veteran's benefits 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.

(3) The applicant contends not being compensated for attending two drills with a separate unit and further contends the recoupment of the enlistment bonus should be suspended until the discharge status is upgraded. The Board determined that the applicant's pay issue and request for suspension of enlistment bonus recoupment 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. 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.

(4) The applicant's contentions about never being informed of the absences and the imminent discharge were considered. The Board found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to support the assertion that the applicant was not informed of the consequences for missing drill or that the command did not follow proper procedures.

(5) The applicant contends seeking treatment, becoming clean, and obtaining and maintaining an employment. The Board considered the applicant's post-service accomplishments and determined that they do not outweigh the applicant's unsatisfactory participation.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. However, the applicant may request a personal appearance hearing to address issues before a 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 to all the evidence before the Board, the applicant's self-asserted Depression, Bipolar Disorder, and Social Anxiety did not outweigh the applicant's medically unmitigated unsatisfactory participation. The Board also considered the applicant's contentions regarding post-service accomplishments and not being informed of the consequences of missing drill and found that the totality of the evidentiary record does not support 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 applicant's Under Other Than Honorable Conditions discharge was proper and equitable IAW regulation as the applicant's conduct fell below that level of satisfactory/meritorious service warranting General/Honorable characterizations.

(2) There is no SPD Code listed on the applicant's discharge paperwork (USAR), so no upgrade action is required.

(3) There is no RE-code listed on the applicant's discharge paperwork (USAR), so no upgrade action is required.

**10. BOARD ACTION DIRECTED:**

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

**Authenticating Official:**

7/29/2024

**X**

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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