

**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 an upstanding citizen and family person, and this characterization hanging over their head has haunted them since the day it happened. The applicant believes, and others believe, their character is stronger than what their discharge has characterized them. The applicant has not had a single speeding ticket or any problems with following the law. The applicant's life has always been positive and productive in this country and their ability to be what they want to be is limited by the discharge. The applicant cannot get a steady job with the government or get a well-paying job because most employers see this discharge as dishonorable. The applicant believes their service to this great country was honorable.

b. **Board Type and Decision:** In a records review conducted on 11 April 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Major Depressive Disorder outweighing the applicant's offenses of AWOL and missing movement. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable and changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF, and a change to the reentry eligibility (RE) code to 3.

*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:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 6 August 2008

**c. Separation Facts:**

(1) **Special Court Martial Order 17:** On 30 May 2007, the applicant was charged with:

Charge I: Violating Article 86, UCMJ, for being AWOL, Specification: On or about 8 January 2007, without authority, absented oneself from their unit to wit: 1-10th FA, 3d BCT, 3d ID, located at Fort Benning. After arraignment and entry of plea, but prior to announcement of findings, the Specification of Charge I was amended adding, "Headquarters and Headquarters Battery," to the unit the accused was assigned to, and remained absent until on or about 5 February 2007. Plea: Guilty. Finding: Guilty.

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

**AR20210001231**

Charge II: Violating Article 87, UCMJ, for Specification: on or about 9 January 2007 and 15 January 2007, through design, missed the movement of 1-10th FA, 3d BCT, 3d ID, located at Fort Benning. After arraignment and entry of plea, but prior to announcement of findings, the Specification of Charge II was amended adding, "Headquarters and Headquarters Battery," to the unit the accused was assigned to the National Training Center, Ft Irwin, CA, with which they were required in the course of duty to move. Plea: Guilty. Finding: Guilty.

Charge III: Violating Article 91, UCMJ, for Specification: Having received a lawful order from SGT N. T., a non-commissioned officer, then known by the accused to be a non-commissioned officer, to bring in their B bag, or words to that effect, an order which it was their duty to obey, did, at or near Ft Benning, on or about 8 December 2006 or 9 December 2006, willfully disobeyed the same. Plea: Not Guilty. Finding: Dismissed by the Military Judge on motion of the Trial Counsel after findings.

The sentence was adjudged on 27 March 2007. To be reduced to the grade of Private (E-1), to be confined for 45 days, and to be discharged from the service with a bad-conduct discharge.

The findings of guilty were approved. Only so much of the sentence as provided for the reduction to the grade of Private (E-1) and confinement for one month was approved and would be executed. The accused's request for discharge pursuant to the provisions of Chapter 10, Army Regulation 635-200, was approved for the issuance of a discharge under other than honorable conditions. The accused will be credited with 27 days confinement credit against the approved sentence to confinement.

**(2) Legal Consultation Date:** 28 March 2007

**(3) Basis for Separation:** Pursuant to the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

**(4) Recommended Characterization:** Under Other Than Honorable Conditions

**(5) Separation Decision Date / Characterization:** 30 May 2007 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 3 January 2006 / 4 years

**b. Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 89

**c. Highest Grade Achieved / MOS / Total Service:** E-3, 25U10, Signal Support System Specialist / 2 years, 4 months, 25 days

**d. Prior Service / Characterizations:** None

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

**f. Awards and Decorations:** NDSM, ASR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Special Court Martial Order 17, as described in previous paragraph 3c.

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From PDY to CMA, effective 27 February 2007; and  
From CMA to PDY, effective 10 April 2007.

**i. Lost Time / Mode of Return:** 67 days:

AWOL, 8 January 2007 – 3 February 2007 / NIF  
CMA, 27 February 2007 – 9 April 2007 / Release from Confinement

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

**(1) Applicant provided:** Medical records, 17 October 2006, reflects an evaluation which included a diagnosis.

**(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:** DD Form 214; Online application; medical records.

**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 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) Paragraph 3-7a states an Honorable discharge is a separation with honor and 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.

(4) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(5) Paragraph 3-7c states Under Other Than Honorable Conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(6) Chapter 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

(7) Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8.

(8) Paragraph 10-8a stipulates a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. (See chap 3, sec II.)

(9) Paragraph 10b stipulates 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 improper.

(10) Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

f. Army Regulation 601-210, (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes: RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

**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 evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The general (under honorable conditions) discharge received by the applicant was normal and appropriate under the regulatory guidance.

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.

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: Adjustment Disorder, Anxiety Disorder NOS, Depression/Major Depressive Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder, Anxiety Disorder NOS, and Depression. The applicant is also service connected by the VA for Major Depressive Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of mitigating BH conditions. The applicant was diagnosed in service with an Adjustment Disorder, Anxiety Disorder NOS, and Depression. The applicant is also service connected by the VA for Major Depressive Disorder. Given the nexus between Major Depressive Disorder, avoidance, and decreased motivation, Major Depressive Disorder mitigates the AWOL and missing movement that led to the applicant's separation.

(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 Major Depressive Disorder outweighed the applicant's offenses of AWOL and missing movement.

b. Response to Contention(s):

(1) The applicant contends good service. The Board liberally considered the applicant's behavioral health conditions and determined that the applicant's Major Depressive Disorder outweighed the applicant's offenses of AWOL and missing movement. The Board determined

that a discharge upgrade is warranted based on that medical mitigation. The Board considered the applicant's good service contention but ultimately did not address it due to an upgrade being granted based on medical mitigation.

(2) 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 the discharge is inequitable based on the applicant's Major Depressive Disorder outweighing the applicant's offenses of AWOL and missing movement. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable and changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF, and a change to the reentry eligibility (RE) code to 3.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Major Depressive Disorder outweighed the applicant's offenses of AWOL and missing movement. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Secretarial Authority under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

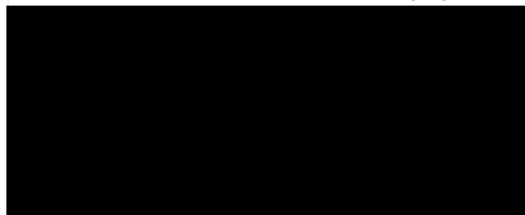
(3) The RE code will change to RE-3.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Secretarial Authority / JFF
- d. Change RE Code to: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

6/11/2024



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

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

**AR20210001231**

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury

UNC – Uncharacterized  
Discharge

UOTHC – Under Other Than  
Honorable Conditions

VA – Department of Veterans  
Affairs