

**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 general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, incurring a debt due to a pay issue which was never corrected while in Iraq. The applicant sought relief from the finance office and Judge Advocate General and was advised of too many conflicting choices. The applicant reenlisted for an SRB in the amount of \$6,000. At the time of their administrative discharge, the bonus was not recouped. The applicant contends they should have paid the debt in full while stationed in Iraq. The finance office told the applicant they could not correct this issue until the applicant returned to Fort Drum. The applicant states being punished for incurring this debt and had to repay the total amount, which was never debited from their pay while in the service. The applicant never received an answer to their 2007 debt waiver requests due to mailing issues.

b. **Board Type and Decision:** In a records review conducted on 9 May 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:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 7 February 2007

**c. Separation Facts:**

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

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant submitted a false claim against the United States in the amount of \$10,891.70, by obtaining Basic Allowance for Housing and Family Separation Allowance when they knew they were not entitled to receive.

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

(4) **Legal Consultation Date:** 16 November 2006

(5) **Administrative Separation Board:** On 13 December 2006, the applicant was notified to appear before an administrative separation board and advised of rights.

On 9 January 2007, the administrative separation board convened, and the applicant appeared with counsel. The Board determined the reasons listed in the notification memorandum were supported by a preponderance of the evidence. The board recommended the applicant's discharge with characterization of service of general (under honorable conditions).

On 24 January 2007, the separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** 24 January 2007 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 31 January 2006 / 6 years
- b. **Age at Enlistment / Education / GT Score:** 40 / High School Graduate / 108
- c. **Highest Grade Achieved / MOS / Total Service:** E-5 / 44B20, Metal Worker / 9 years, 4 months, 11 days
- d. **Prior Service / Characterizations:** RA, 31 August 1983 – 19 August 1988 / HD  
USAR, 20 August 1988 – 11 February 1989 / NA  
(Break in Service)  
ARNG, 16 April 2002 – 23 February 2005 / HD  
RA, 24 February 2005 – 30 January 2006 / HD
- e. **Overseas Service / Combat Service:** SWA / Iraq (5 November 2005 – 16 July 2006)
- f. **Awards and Decorations:** AAM-2, AGCM, NDSM, GWOTSM, ICM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 17 October 2006, for on or about 28 September 2005, by presenting a DA Form 5960 to Lieutenant Colonel I., an officer of the United States duly authorized to approval a claim against the United States in the amount of \$10,891.70 for Basic Allowance for Housing and Family Separation Allowance, which claim was false in the amount of \$10,891.70, the applicant had no custodial or visitation rights to their children, and was then known by them to be so false. The punishment consisted of a reduction to E-4 and extra duty and restriction for 45 days.

Developmental Counseling Forms, for passing inspection.

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

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

**(1) Applicant provided:**

**(2) AMHRR Listed:** Report of Mental Status Evaluation, 28 September 2006, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The evaluation included a diagnosis.

*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 149; DD Form 214.

**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)** Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

**(6)** Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

**(7)** Paragraph 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

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-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

**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 contends incurring a debt due to a pay issue which was never corrected while in Iraq. The applicant sought relief from the finance office and Judge Advocate General and was advised of too many conflicting choices. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The AMHRR reflects, the applicant submitted a false claim against the United States in the amount of \$10,891.70, by obtaining Basic Allowance for Housing and Family Separation Allowance when they knew they were not entitled to receive. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends being punished for incurring a debt and had to repay the total amount, which was never debited from their pay while in the service. The applicant never received an answer to their 2007 debt waiver requests due to mailing issues. The applicant's issue does 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.

#### **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: Post Traumatic Stress Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant is diagnosed and service connected by the VA for PTSD. Service connection establishes that the PTSD existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor opined that while liberal consideration is applied, there is no natural sequela between PTSD and submitting a false claim for housing and family separation since PTSD does not interfere with the ability to distinguish between right and wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder outweighed the applicant's medically unmitigated offenses of submitting a false claim for housing and family separation.

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

(1) The applicant contends incurring a debt due to a pay issue which was never corrected while in Iraq. The applicant sought relief from the finance office and Judge Advocate General and was advised of too many conflicting choices. The Board considered this contention but found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to support that the applicant's medically unmitigated offenses of submitting a false claim for housing and family separation should be excused based on a pay issue or advice obtained from JAG.

(2) The applicant contends being punished for incurring a debt and had to repay the total amount, which was never debited from their pay while in the service. The applicant never received an answer to their 2007 debt waiver requests due to mailing issues. The Board considered this contention but did not find the applicant's repayment of a debt incurred while in-service to mitigate or excuse the applicant's misconduct.

**c.** The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. The applicant has exhausted all available appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. 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 applicant's Post Traumatic Stress Disorder did not outweigh the medically unmitigated offenses of submitting a false claim for housing and family separation. The Board also considered the applicant's contentions regarding incurring a debt due to a pay issue and found that the totality of the applicant's record does not warrant 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 General discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

(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.

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

**AR20210001232**

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

**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:**

6/18/2024

**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