

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

The applicant seeks relief contending, in effect, serving in the Reserve for six years and was sent to Iraq, and now is homeless and jobless. The applicant contends because of mental health issues they started having during their deployment, their discharge should be upgraded. The applicant states applying for and being denied disability benefits for PTSD; however, they were diagnosed with severe depression by a VA psychiatrist via video telecast from the VA hospital in Okinawa, Japan, in February 2011. Although the applicant was never diagnosed with PTSD, the applicant believes they are suffering from PTSD.

b. **Board Type and Decision:** In a records review conducted on 15 January 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, the applicant's homeless status, and the discharge having served its purpose in the years since separation. 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:** NIF / AR 135-178 / NIF / NIF / NIF / Under Other Than Honorable Conditions

b. **Date of Discharge:** 5 September 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:** 28 December 2006 / 6 years
- b. Age at Enlistment / Education / GT Score:** 38 / High School Graduate / NIF
- c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92G10, Food Service Operation / 15 years, 3 months, 21 days
- d. Prior Service / Characterizations:** USNR, 10 June 1986 – 6 June 1989 / HD
 USN, 7 June 1989 – 13 October 1992 / UOTH
 (Break In Service)
 ARNG, 2 March 2005 – 16 December 2005 / HD
 USAR, 17 December 2005 – 19 June 2006 / NA
 AD, 20 June 2006 – 29 September 2007 / HD
 (Concurrent Service)
- e. Overseas Service / Combat Service:** SWA / Iraq (26 August 2006 – 31 August 2007)
- f. Awards and Decorations:** ARCOM-2, AAM, NUC, USN E Ribbon; AGCM, NGCM, NDSM-2, SWASM, GWOTSM, ICM, ASR, OSR-2, AFRMMD, NSSDR, KLM
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:** Orders 13-253-0005, 10 September 2013, reflect the applicant was discharged from the U.S. Army Reserve effective 5 September 2013. The applicant was reduced in rank from E-4 to E-1 effective 5 September 2013.
- i. Lost Time / Mode of Return:** None
- j. Behavioral Health Condition(s):**
 - (1) Applicant provided:** None
 - (2) AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: Online application; DD Form 214; self- authored letter; Chronological Statement of Retirement Points; Yahoo email; DD Form 2870; VAPHS letter; VA Form 10-5345 and ARBA Letter; Orders 13-253-00005.

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 2-7, 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) 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 13-253-00005, 10 September 2013. The orders indicate the applicant was discharged under the provisions of AR 135-178, with a characterization of service of under other than honorable conditions.

The applicant contends suffering from depression and PTSD. 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 AMHRR is void of a mental status report.

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 current homelessness and the need for help. Eligibility for housing support program benefits for Veterans 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. Moreover, all veterans at risk for homelessness or attempting to exit homelessness can request immediate assistance by calling the National Call Center for Homeless Veterans hotline at 1-877-424-3838 for free and confidential assistance.

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 found that, based on the Board's Medical Advisor's opine, a review of the applicant's DOD and VA health records, the applicant's statement, and/or civilian provider

documentation, the applicant has the following potentially mitigating diagnoses/experiences: Depressive Disorder NOS. Additionally, the applicant asserts PTSD, 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 found that, based on the Board's Medical Advisor's opine, the applicant self-asserts having PTSD and Depression at the time of military service. There is evidence that the applicant was diagnosed with Depressive Disorder NOS in April 2011.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board applied liberal consideration, to include considering the Board's Medical Advisor's opine, and found that though there is evidence that the applicant was diagnosed with Depressive Disorder NOS in April 2011, in May 2012 the Depressive Disorder NOS was documented to be mild and not interfering with day-to-day functioning. There is no medical documentation to substantiate that the Depressive Disorder NOS existed after May 2012, and the condition was determined by the VA not to be service-connected. The applicant was found not to meet criteria for PTSD in April 2011 and May 2012, and there is no other medical evidence to support the applicant's asserted PTSD. As such, there is no medical documentation to support that the applicant's asserted Depression or PTSD existed at the separation or contributed to the discharge.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the applicants self-asserted Depressive Disorder NOS and PTSD, which were not service connected by the military or the VA, did not outweigh the basis of separation - unsatisfactory performance of not completing applicant's 6-year Reserve contract.

b. Response to Contention(s):

(1) The applicant contends current homelessness and the need for help. The Board considered this contention and determined that the applicant's homeless status, in combination with the totality of the applicant's service record, to include length, quality and combat time, does warrant an upgrade to the characterization of discharge.

(2) The applicant contends suffering from depression and PTSD. The Board liberally considered this contention but determined that the applicants self-asserted Depressive Disorder NOS and PTSD, which were not service connected by the military or the VA, did not outweigh the basis of separation - unsatisfactory performance of not completing applicant's 6-year Reserve contract.

(3) 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 length and quality of service, to include combat service, the applicant's homeless status, and the discharge having served its purpose in the years since separation. 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 of the applicant's length and quality of service, to include combat

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

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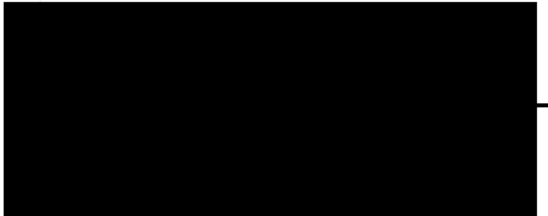
service, the applicant's homeless status, and the discharge having served its purpose in the years since separation. These factors outweighed the applicant's unsatisfactory performance. Thus, the prior characterization is no longer appropriate. Consideration for narrative reason, SPD code, and RE Code changes were not made due to the applicant's status as a reservist.

10. BOARD ACTION DIRECTED:

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

Authenticating Official:

5/24/2024



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

SPD – Separation Program
Designator
TBI – Traumatic Brain Injury
UNC – Uncharacterized
Discharge
UOTHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs