

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 uncharacterized. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, in December 2006, the applicant was involved in a line of duty (LOD) accident. The applicant's request to change the MOS to finish 20 years of service was denied by the unit. Instead, the applicant was advised to remain at home while the relevant documentation was completed. The applicant followed the unit's advice to stay at home and wait for some correspondence, but they never arrived. While not receiving the DD Form 214, the applicant learned about the discharge when applying for a new ID card in Fort Indiantown Gap. In 2009, after receiving a notice the government was taking the income tax return to pay back the bonus received for reenlistment, the applicant realized the LOD paperwork had not been filed. The LOD documenting the injuries of 2006 were lost numerous times and the forms were not acknowledged until 2011. The applicant was unsuccessful with several attempts to correct the uncharacterized discharge to a medical retirement. The accident caused the applicant to be removed from the deployment list, the medical field was permanently removed, the marriage fell apart, and the applicant is no longer able to run and play with their children. It has also resulted in PTSD and because of the accident, the VA has granted the applicant 90 percent disability. The applicant does not merit the uncharacterized discharge after reenlisting in 2005 to advance the career as a medic. Because the applicant was unable to obtain the rightful benefits, the discharge should not have been uncharacterized. When reenlisting, the applicant expressed a desire to complete the 20-year term and was activated for overseas assignment. Then the accident occurred, and everything changed. Correcting the records would allow the applicant to seek an employment with the federal government, and the applicant is not opposed to reenlisting and completing the 20-year retirement requirement.

b. **Board Type and Decision:** In a records review conducted on 5 December 2023, and by a 5-0 vote, Accordingly, the Board voted to grant relief, due to applicant's MDD, MST and PTSD mitigating applicant's missing multiple battle assemblies basis for separation, in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 135-178, Chapter 13 and the narrative reason for separation to Secretarial Authority. *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 / Uncharacterized
- b. **Date of Discharge:** 23 March 2010
- c. **Separation Facts:**

- (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:** 3 June 1993 / 7 years / The AMHRR is void of any additional enlistment contract.
- b. **Age at Enlistment / Education / GT Score:** 20 / High School Graduate / 101
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 68W10, Health Care Specialist / 7 years, 11 months, 12 days
- d. **Prior Service / Characterizations:** USAR, 29 May 1990 – 20 June 1990 / NA
 ADT, 21 June 1990 – 24 August 1990 / NIF
 USAR, 25 August 1990 – 19 July 1991 / UNC
 (Break in Service)
 USAR, 3 June 1993 – 17 August 1993 / NA
 IADT, 18 August 1993 – 19 November 1993 / UNC
 (Concurrent Service)
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** NDSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Letter of Instructions, Unexcused Absence, 8 March 1994, reflects the applicant was absent from the scheduled unit training assembly (UTA) on 6 March 1994, and the applicant had accrued 10 unexcused absences within a one-year period.

Letter of Instruction, Unexcused Absence from Annual Training, 16 August 1995, reflects the applicant failed to complete the Annual Training on 22 April to 5 May 1995 at Fort Indiantown Gap, Pennsylvania.

Orders 06-260-00003, 17 September 2006, reflect the applicant was awarded PMOS: 68W10 and SMOS 91W10, effective 17 September 2006.

Orders 10-075-00036, 16 March 2010, reflect under the authority of AR 135-178, the applicant was discharged from the United States Army Reserve, effective 23 March 2010 with an uncharacterized service.

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

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs disability rating decision, 19 December 2012, reflecting the applicant was rated 70 percent disability for anxiety disorder, with major depression and alcohol dependence in sustained partial remission; 50 percent disability for tension headaches associated with residuals, traumatic brain injury (claimed as residuals, head injury to include memory loss and amnesia); and 10 percent disability for residuals, traumatic brain injury (claimed as residuals, head injury to include memory loss and amnesia).

Review Evaluation of R-TBI, Disability Benefits Questionnaire, 17 December 2014, reflects the applicant was diagnosed with 854.02 Traumatic Brain Injury (TBI); Post-Traumatic Stress Disorder; Alcohol Use Disorder, moderate; and, Attention Deficit, Hyperactivity Disorder.

Review Evaluation of R-TBI, Disability Benefits Questionnaire, 28 September 2012, reflects the applicant was diagnosed with 300.02 Anxiety Disorder, NOS; 296.34 Major Depression, Recurrent; and 303.0 Alcohol Dependence, in Sustained partial remission.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Online application; DD Form 293; discharge orders (23 March 2010-UNC); DD Form 214 (IADT); discharge orders (19 July 1991-UNC); IDT Attendance Roster Dec 2006; Orders 111-017 (24 March 1995) and roster; Orders 109-15 (IADT-91B10 3 June 1993); Orders 76-10 (IADT-91A10 16 April 1991); Orders 109-16 (IADT-91A10 29 May 1990); Chronological Statement of Points; DFAS letter 16 July 2010; DFAS letter; email 23 February 2011; Notice of Debt letter; and two email 14 and 15 November 2011. Additional Evidence: VA benefits decision letter and VA Progress Notes.

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) 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.

(3) Chapter 13 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 memorandums. Secretarial separation authority is normally exercised on a case-by-case basis.

(4) Glossary defines entry-level status: Upon enlistment, a Soldier qualifies for entry level status during the first 180 days of continuous active military service or the first 180 days of continuous active service after a service break of more than 92 days of active service. A member of a Reserve component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry level status upon enlistment in a Reserve component. Entry level status for such a member of a Reserve component terminates as follows: 180 days after beginning training if the Soldier is ordered to ADT for one continuous period of 180 days or more, or 90 days after the beginning of the second period of ADT if the Soldier is ordered to ADT under a program that splits the training into two or more separate periods of active duty. For the purposes of characterization of service, the Soldier's status is determined by the date of notification as to the initiation of separation proceedings.

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 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 10-075-00036, 16 March 2010. The orders indicate the applicant was discharged under the provisions of AR 135-178, with a characterization of service of uncharacterized.

The applicant requests a narrative reason change to a medical retirement. Orders are published when service members are discharged from the U.S. Army Reserve, which indicate the effective date and characterization of the discharge. Narrative reasons and RE Codes usually are not included in the order. In insomuch as the applicant's discharge order does not have these elements, the ADRB has no basis for changing the discharge order.

The applicant contends the request to change the MOS was denied by the unit and after the December 2006 line of duty (LOD) accident, the applicant was advised to remain at home and wait for some correspondence, which never came. The applicant did not submit any evidence or any investigative report of the accident and documents reflecting subsequent medical treatment of any injuries, other than the applicant's statement, to support the contention.

The applicant contends after being injured in a LOD accident, the applicant was never informed of the imminent discharge, but was told to remain at home until some correspondences were

received and became aware of the discharge when applying for a new ID card. The applicant did not submit any evidence, other than the applicant's statement, to support the contention.

The applicant contends when receiving notice, the government was collecting the applicant's income tax returns to pay back the reenlistment bonus, the applicant realized the LOD paperwork had not been filed and the LOD documenting the injuries of 2006 were lost numerous times and were not acknowledged until 2011. The applicant did not submit any evidence of the December 2006 line of duty documentation, other than the applicant's statement, to support the contention.

The applicant contends the LOD accident caused PTSD. The applicant provided documents reflecting the Department of Veterans Affairs has granted the applicant ratings of 70 percent disability for anxiety disorder, with major depression and alcohol dependence in sustained partial remission; 50 percent disability for tension headaches associated with residuals, traumatic brain injury (claimed as residuals, head injury to include memory loss and amnesia); and 10 percent disability for residuals, traumatic brain injury (claimed as residuals, head injury to include memory loss and amnesia). The applicant's AMHRR is void of any medical injuries sustained while serving.

The applicant contends not deserving the uncharacterized discharge after having reenlisted in 2005 to advance the career as a medic. The applicant's AMHRR is void of any reenlistment following the 3 June 1993 enlistment. The applicant did not submit any evidence, other than the applicant's statement, to support the contention.

The applicant contends an upgrade of the discharge would allow veterans' benefits. Eligibility for veterans' 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.

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

The applicant desires to rejoin the Military Service to complete 20 years of service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. The applicant's discharge orders do not reflect the reentry code; therefore, the applicant should contact a local recruiter to determine eligibility to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

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, MST, and MDD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 100 percent service connected (SC) for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that failure to attend battle assembly/unsatisfactory participation would be mitigated by PTSD given the association between PTSD and avoidance and the association between MDD and withdrawal and isolation. The applicant also reported MST involving a superior officer during initial entry training.

(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 PTSD, MST, and MDD outweighed missing multiple battle assemblies for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant requests a narrative reason change to a medical retirement. 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 PTSD, MST and MDD fully outweighing the applicant's basis for separation.

(2) The applicant contends the request to change the MOS was denied by the unit and after the December 2006 line of duty (LOD) accident, the applicant was advised to remain at home and wait for some correspondence, which never came. 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 PTSD, MST and MDD fully outweighing the applicant's basis for separation.

(3) The applicant contends after being injured in a LOD accident, the applicant was never informed of the imminent discharge, but was told to remain at home until some correspondences were received and became aware of the discharge when applying for a new ID card. 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 PTSD, MST and MDD fully outweighing the applicant's basis for separation.

(4) The applicant contends when receiving notice, the government was collecting the applicant's income tax returns to pay back the reenlistment bonus, the applicant realized the LOD paperwork had not been filed and the LOD documenting the injuries of 2006 were lost numerous times and were not acknowledged until 2011. 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 PTSD, MST and MDD fully outweighing the applicant's basis for separation.

(5) The applicant contends the LOD accident has caused PTSD. The Board considered this contention during proceedings and voted to change the discharge characterization based on the applicant's PTSD contributing to the applicant's basis for separation.

(6) The applicant contends not deserving the uncharacterized discharge after having reenlisted in 2005 to advance the career as a medic. 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 PTSD, MST and MDD fully outweighing the applicant's missing multiple battle assemblies basis for separation.

(7) The applicant contends an upgrade of the discharge will allow the applicant to obtain federal government employment and veterans' benefits. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

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.

(8) The applicant desires to rejoin the Military Service to complete 20 years of service. The Board considered this contention and determined that, as the applicant was in the Army Reserves, there is no reentry code supplied upon discharge, honorable or otherwise. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate

c. The Board determined due to applicant's MDD, MST and PTSD mitigating applicant's missing multiple battle assemblies basis for separation, the Board voted to upgrade the characterization of service to Honorable and changed the separation authority to AR 135-178, Chapter 13 and the narrative reason for separation to Secretarial Authority. However, the applicant may request a personal appearance hearing to address further issues before the 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 to change the applicant's characterization of service to Honorable because the applicant's MDD, MST and PTSD mitigated the applicant's misconduct of missing multiple battle assemblies. 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 not change, as there is no RE-code listed on the applicant's discharge paperwork, due to being in the Army Reserves, no upgrade actions are required for this item.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001428

10. BOARD ACTION DIRECTED:

- a. **Issue a Separation Order:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason:** Secretarial Authority
- d. **Change Authority to:** AR 135-178, Chapter 13

Authenticating Official:



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