

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

The applicant seeks relief contending, in effect, after returning from a tour in Afghanistan in 2007, the applicant was diagnosed with PTSD. The applicant was provided PTSD therapy throughout a subsequent tour in Iraq. Upon returning in 2009, and following some issues, the applicant's first offense, most of the charges were dropped. The applicant then went AWOL because of undocumented punishments under Article 15 or Court-Martial. The applicant extended the AWOL period because of being fed up with the military doctors in behavioral health, who frequently changed the psychiatric medications. The applicant made a poor decision by going AWOL but has learned from it and is a better person now. The applicant used the GI Bill to receive an associate degree and is now enrolled in a Bachelor of Science program in computer information systems. The applicant works as a telecommunication electrician apprentice and has not been in any troubles since the few times after returning from Iraq.

**b. Board Type and Decision:** In a records review conducted on 2 November 2023, 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:** Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 9 November 2010**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 6 October 2010

**(2) Basis for Separation:** The applicant was informed of the following reasons:

The applicant went AWOL on 18 August 2009 and did not return until 20 August 2009.

The applicant went AWOL on 10 September 2009 and did not return until 9 August 2010.

The applicant was arrested on 12 June 2009 for two counts of aggravated assault with a handgun, possession of marijuana, possession of drug paraphernalia, and possession with intent to distribute.

The applicant was arrested on 16 August 2010 for domestic abuse battery.

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

**(4) Legal Consultation Date:** 7 October 2010

**(5) Administrative Separation Board:** On 7 October 2010, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 3 November 2010 / Under Other Than Honorable Conditions

#### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 4 March 2008 / 6 years

**b. Age at Enlistment / Education / GT Score:** 22 / High School Graduate / 113

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 25U20, Signal Support System Specialist / 4 years, 10 months, 17 days

**d. Prior Service / Characterizations:** RA, 20 January 2005 – 3 March 2008 / HD

**e. Overseas Service / Combat Service:** SWA / Afghanistan (6 March 2006 – 23 November 2006); Iraq (25 November 2007 – 31 December 2008)

**f. Awards and Decorations:** ARCOM, AAM-2, JMUA, VUA, AGCM, NDSM, ACM-2CS, GWOTSM, ICM-CS, ASR, OSR-2, NATOMDL

**g. Performance Ratings:** 8 August 2008 – 1 May 2009 / Among the Best

**h. Disciplinary Action(s) / Evidentiary Record:** Nine Personnel Action forms reflect the applicant's duty status changed as follows:

From "Present for Duty (PDY)," to "Confined by Civil Authorities (CCA)" effective 8 June 2009;  
From "CCA" to "PDY," effective 12 June 2009;  
From "PDY" to "Absent Without Leave (AWOL)," effective 18 August 2009;  
From "AWOL" to "PDY," effective 20 August 2009;  
From "PDY" to "AWOL," effective 10 September 2009;  
From "AWOL" to "Dropped From Rolls (DFR)," effective 13 October 2009;  
From "AWOL" to "PDY," effective 9 August 2010;  
From "PDY" to "CCA," effective 9 August 2010; and  
From "CCA" to "PDY," effective 17 August 2010.

Military Police Report, 12 June 2009, reflects the applicant was apprehended for: Possession of drug paraphernalia (off post), controlled substance violations, marijuana – distribution of marijuana (on-post), possession of marijuana (on post), and two counts of aggravated assault – using handgun (on post). The report indicated after posting bond, the applicant was released to military control, and transported back to the applicant's unit.

Military Police Report, 16 August 2010, reflects the applicant was apprehended for: arrest (off post) and domestic abuse battery (off post).

Military Police Report, 19 August 2009, reflects the applicant was apprehended for: AWOL – failed to go to the place of duty (on post), and AWOL – surrendered to military/civilian authorities (on post).

**i. Lost Time / Mode of Return:** 337 days:

AWOL, 18 August 2009 – 20 August 2009 / Surrendered to Military Authorities  
AWOL, 10 September 2009 – 9 August 2010 / Confined by Civil Authorities

CCA, 8 June 2009 to 12 June 2009 for 5 days, and 9 August 2010 to 17 August 2010 for 9 days.  
These periods are not annotated on the DD Form 214, block 29.

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Report of Medical History, 23 September 2010, the applicant noted behavioral health issues and the examining medical physician noted in the comments section: Frequent nervousness and panic attacks, and diagnosed with PTSD, Major Depressive Disorder, Anxiety, and insomnia.

**5. APPLICANT-PROVIDED EVIDENCE:** Online application.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant received an Associate Degree; is pursuing a Bachelor of Science Degree in computer information systems; and has obtained employment as a telecommunication electrician apprentice.

**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 3-7a 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.

(3) 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.

(4) 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.

(5) 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.

(6) Paragraph 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends being diagnosed with PTSD after returning from Afghanistan in 2007 and had received PTSD therapy throughout a subsequent Iraq deployment. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR contains documentation which supports a diagnosis of in-service PTSD, Major Depressive Disorder, Anxiety, and insomnia. The record is void of a mental status evaluation or behavioral health evaluation.

The applicant contends encountering some problems in their first offense but most of the charges were dropped. The applicant's AMHRR indicates the applicant committed many discrediting offenses. Army Regulation 635-200, in pertinent part, stipulates circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends being on an extended AWOL period because of issues with the behavioral health doctors, who frequently modified the psychiatric medications. There is no evidence in the AMHRR the applicant ever sought further assistance before committing the misconduct, which led to the separation action under review.

The applicant contends obtaining an Associate Degree and employment and pursuing a Bachelor of Science degree. 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 [REDACTED] 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, Major Depression, Acute Stress Disorder, PTSD, TBI, Panic Disorder, and Anxiety.

(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 Adjustment Disorder, Major Depression, Acute Stress Disorder, PTSD, TBI, Panic Disorder, and Anxiety, and the VA has also service connected the applicant's PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with Adjustment Disorder, Major Depression, Acute Stress Disorder, PTSD, TBI, Panic Disorder, and Anxiety, and the VA has also service connected the applicant's PTSD. Given the nexus between PTSD, Major Depression, and avoidance, applicant's AWOLs are mitigated. There is also a nexus between PTSD, Major Depression, TBI and self-medicating with substances, so possession of marijuana and drug paraphernalia are mitigated. However, there is no natural sequela between any of the applicant's BH conditions (i.e., PTSD, TBI, Major Depression, Adjustment Disorder, Acute Stress Disorder, Panic Disorder, Anxiety) and possession of drugs with the intent to distribute, aggravated assault, or domestic abuse battery since none of these conditions 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 PTSD, Major Depression, and avoidance TBI outweighed the basis for applicant's separation – aggravated assault with a handgun, domestic abuse battery and possession with intent to distribute.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD after returning from Afghanistan in 2007 and had received PTSD therapy throughout a subsequent Iraq deployment. The Board considered this contention and determined this contention is valid. Ultimately, the applicant's

PTSD outweighs applicant's multiple AWOLs, drug use and possession of drugs. The remaining misconduct of possession of drugs with the intent to distribute, aggravated assault and domestic abuse battery is not excused or mitigated by applicant's PTSD. Therefore, the Board voted the applicant's discharge is proper and equitable.

**(2)** The applicant contends encountering some problems as a first offense but most of the charges were dropped. The Board considered this contention and determined applicant's PTSD and depression outweighs applicant's multiple AWOLs, drug use and possession of drugs. The remaining misconduct of possession of drugs with the intent to distribute, aggravated assault and domestic abuse battery is not excused or mitigated and applicant did not provide sufficient evidence to support this contention. Therefore, the Board voted the applicant's discharge is proper and equitable.

**(3)** The applicant contends being on an extended AWOL period because of issues with the behavioral health doctors, who frequently modified the psychiatric medications. 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. In light of the current evidence of record, the Board determined the applicant's discharge was appropriate.

**(4)** The applicant contends obtaining an Associate Degree and employment and pursuing a Bachelor of Science degree. The Board considered this contention and determined that the applicant's Associate Degree, pursuing a Bachelor of Science degree and employment do not outweigh the misconduct based on the seriousness of the applicant's offense of aggravated assault with a handgun, domestic abuse battery and possession with intent to distribute.

**c.** The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the 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 not to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence before the Board, the applicant's Adjustment Disorder, Major Depression, Acute Stress Disorder, PTSD, TBI, Panic Disorder, and Anxiety did not excuse or mitigate the offenses of aggravated assault with a handgun, domestic abuse battery and possession with intent to distribute. The Board also considered the applicant's contention regarding most of the charges being dropped for first offense and the applicant's BH conditions and found that totality of the applicant's record does not warrant a discharge upgrade. 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**

**AR20210001488**

(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:**

1/24/2024

**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