

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, a desire to access educational benefits under the Post-9/11 GI Bill. The applicant states being 52 years old and has discovered a need for a higher level of education to secure competitive employment in today's work force. The applicant believes, suffering from several hardships were having a major impact on the applicant's ability to be a Soldier and parent. The applicant understands the mistakes and accepts full accountability for their actions. The applicant states being confused in reference to Orders 287-738, which reduced the applicant in grade for unsatisfactory participation and then receiving Orders 345-755 which revoked the discharge status.

b. **Board Type and Decision:** In a records review conducted on 28 September 2023, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD outweighing the applicant's missing Unit Training Assembly (UTA). Therefore, the Board voted to recommend relief with issuance of a new NGB Form 22a, with an upgrade of the characterization of service to Honorable. The Board's recommendation was forwarded to the Chief, National Guard Bureau, Georgia Military Department, to the Adjutant General, State of Georgia, under the provisions of 10 USC § 1553, for final approval.

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:** Unsatisfactory Participation / NGR 600-200, Paragraph 8-35j / RE-3 / General (under honorable conditions)

b. **Date of Discharge:** 6 December 2009

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: 21 January 2004 / 1 year / On 10 January 2005, the applicant extended for 6 years, with a new ETS date of 20 January 2011.

b. Age at Enlistment / Education / GT Score: 40 / 1 year of college / 104

c. Highest Grade Achieved / MOS / Total Service: E-6 / 74D30, Chemical Operations Specialist / 15 years, 5 months 17 days

d. Prior Service / Characterizations: RA, 27 March 1984 – 9 March 1990 / HD
ARNG, 10 March 1990 – 29 November 1990 / NA
ARNG, 30 November 1990 – 10 April 1990 / HD
ARNG, 11 April 1991 – 6 April 1992 / HD
(Break in Service)
ARNG 31 May 2002 – 30 November 2003 / HD
(Break in Service)

e. Overseas Service / Combat Service: Germany / None

f. Awards and Decorations: ARCOM, AAM-2, AGCM, NDSM, ASR, OSR, HSM

g. Performance Ratings: December 2004 – 30 November 2007 / Fully Capable
1 December 2007 – 30 November 2008 / Marginal

h. Disciplinary Action(s) / Evidentiary Record: Three Letters of Instruction reflect the applicant was notified of three unexcused absences for three separate unit training assemblies (UTA) or multiple unit training assembly (MUTA) on 7 and 8 February 2009; 12 and 13 September 2009 and 7 and 8 November 2009.

Four Gang Forms 0059, reflect the applicant received non judicial punishment on 10 February; 15 September; 10 and 16 November 2009. The same charges were listed for each punishment, for unexcused absences on 22 August; 7 and 8 February; 12 and 13 September; 7 and 8 November 2009. In each non judicial punishment phase the applicant was reduced by one pay grade beginning at E-6 and resulting in a pay grade of E-2.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Quentin Price, MD, Crisis Stabilization Program Discharge Summary reflect a diagnosis of Etoh dependance with Hx of THC Abuse.

VA medical confidential documents, 28 February 2013, reflects a diagnosis of PTSD and Alcohol dependence, in remission.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Two DD Forms 293; NGB Form 22; ARBA letter; self-authored letters; Memorandum, 26 August 2015; partial separation file; Humanitarian Service Medal fact sheet; Memorandum, 23 January 2006; Memo demand for possession; Office of Solicitor General; Family counseling memo; Quentin Price, MD, Crisis Stabilization Program Discharge Summary; The Quentin Price, MD, Crisis Stabilization Program, and 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 a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct 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 135-91 states a member is an unsatisfactory participant when nine or more unexcused absences from scheduled drills accrue during a one-year period and attempts to have the Soldier respond or comply with orders or correspondence have resulted in - the Soldier's refusal to comply with orders or correspondence; or a notice sent by certified mail was refused, unclaimed, or otherwise undeliverable; or verification the Soldier has failed to notify the command of a change of address and reasonable attempts to contact the Soldier have failed. Discharge action may be taken when the Soldier cannot be located or is absent in the hands of civil authorities in accordance with the provisions of AR 135-91, paragraph 2-18, and Chapter 3, section IV, of AR 135-178.

e. Army Regulation 135-178 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 2-9a prescribes an honorable characterization 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 any other characterization would be clearly inappropriate.

(2) Paragraph 2-9b, prescribes, if a Soldier's service has been honest and faithful, it is appropriate to characterize service as general (under honorable conditions). Characterization of service as general (under honorable conditions) is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

(3) Chapter 3-23 (Section IV), states, if separation proceedings under this chapter have been initiated against a Soldier confined by civil authorities, the case may be processed in the absence of the respondent.

(4) Chapter 12 (previously Chapter 13), in affect at the time, provides in pertinent part, individuals can be separated for being an unsatisfactory participant. Soldier is subject to discharge for unsatisfactory participation when it is determined the Soldier is unqualified for further military service because: The Soldier is an unsatisfactory participant as prescribed by AR 135-91, chapter 4; Attempts to have the Soldier respond or comply with orders or correspondence.

(5) Paragraph 12-3, Characterization of service normally will be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted under the guidelines in chapter 2, or uncharacterized if the Soldier is in entry-level status.

(6) 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.

f. National Guard Regulation (NGR) 600-200, establishes standards, policies, and procedures for the management of the Army National Guard (ARNG) and the Army National Guard of the United States (ARNGUS) enlisted Soldiers in the functional areas of: Classification and Reclassification; Personnel Management; Assignment and Transfer, including interstate transfer; Special Duty Assignment Pay; Enlisted Separations; and Command Sergeant Major Program.

(1) Chapter 6 sets the policies, standards, and procedures for the separation of enlisted Soldiers from the ARNG/ARNGUS.

(2) Paragraph 6-25, prescribes the discharge of Soldiers on active duty, (Title 10, USC) in AGR, IET, ADT, and ADOS status, as well as those ordered to active duty for contingency operations or under mobilization conditions, is governed by AR 635-200. All Outside Continental United States (OCONUS) training, including AT is conducted in Title 10 ADT status. Refer to AR 135-178 when considering enlisted Soldiers not on active duty and those on full-time National Guard duty (FTNGD) under Title 32 USC for discharge from the ARNG and as a Reserve of the Army.

(3) Paragraph 6-35j defers to AR 135-178, chapter 12 for unsatisfactory participation. Commanders may recommend retention of Soldiers who have accrued 9 or more unexcused absences within a one-year period. Submit requests with justification for retention to the State MPMO/G1. Include verification the notification requirements of AR 135-91 and paragraph 6-32 have been met. RE 3.

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 the narrative reason for the discharge needs changed. 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 National Guard. The applicant's record does contain a NGB Form 22 (National Guard Report of Separation and Record of Service), which was not authenticated with the applicant's signature. The applicant's NGB Form 22, indicates the applicant was discharged under the provisions of NGR 600-200, Paragraph 8-35j, by reason of Unsatisfactory Participation, with a characterization of service of general (under honorable conditions). The narrative reason specified by NGR 600-200, for a discharge under this paragraph is "Unsatisfactory Participation." Governing regulations stipulate

no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends suffering from several hardships which were having a major impact on the applicant's ability to be a Soldier and parent. The applicant provided a VA medical confidential document, 28 February 2013, reflecting a diagnosis of PTSD and Alcohol dependence, in remission. Also, a copy of Quentin Price, MD, Crisis Stabilization Program Discharge Summary reflecting a diagnosis of Etoh dependance with Hx of THC Abuse. The AMHRR is void of a mental status evaluation.

The applicant contends an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill 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 better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant contends confusion in reference to Orders 287-738, which requested a reduction in grade for Unsatisfactory Participation and then received Orders 345-755 which revoked the discharge status. The applicant's request 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.

The third-party statements provided with the application speak highly of the applicant. They all recognize the applicant's good conduct after leaving the Army.

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 Post-Traumatic Stress Disorder. Service connection establishes that applicant's Post-Traumatic Stress Disorder existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that, given the nexus between Post-Traumatic Stress Disorder and avoidance, the missing drills that led to the applicant's separation are mitigated by applicant's PTSD.

(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 Post-Traumatic Stress Disorder outweighed the missing UTA basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends suffering from several hardships which were having a major impact on the applicant's ability to be a Soldier and parent. 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 Post-Traumatic Stress Disorder outweighing the applicant's missing UTA basis for separation.

(2) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and determined the applicant's narrative reason for discharge is appropriate as the applicant is accountable for the misconduct of missing several UTAs.

(3) The applicant contends an upgrade would allow educational benefits through the GI Bill. 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, 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.

(4) 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 Post-Traumatic Stress Disorder outweighing the applicant's missing Unit Training Assembly (UTA) Therefore, the Board voted to recommend relief with issuance of a new NGB Form 22a, with an upgrade of the characterization of service to Honorable. 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. The Board's recommendation was forwarded to the Chief, National Guard Bureau, Georgia Military Department, to the Adjutant General, State of Georgia, under the provisions of 10 USC § 1553, for final approval.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post-Traumatic Stress Disorder mitigated the applicant's misconduct of missing UTAs. Thus, the prior characterization is no longer appropriate. This recommendation was forwarded to the NGB for approval.

(2) The Board voted not to change the narrative reason for discharge as the applicant is accountable for the misconduct of missing several UTAs.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001700

10. BOARD ACTION DIRECTED:

- a. **Issue a New NGB Form 22a:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason:** No Change
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** NGR 600-200, Paragraph 6-8a

Authenticating Official:

12/13/2023

X	
Presiding	

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