

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, having enlisted at age 17, the applicant deployed to Afghanistan at age 18. At the end of the first deployment, the applicant reenlisted for five years, The applicant then redeployed again at age 20. Both deployments were with the 101st Airborne division. After returning from the second deployment, the applicant began to regret reenlisting for another five years for fear of deploying again. The applicant thought of ways to get kicked out of the Army without receiving a dishonorable discharge. The applicant received orders for Fort Hood assignment. Upon arriving at Fort Hood, the applicant planned to go AWOL and while on a four-day pass, the applicant went AWOL, but returned 28 days later. The applicant received the maximum punishment for the AWOL offense and was discharged with a general (under honorable conditions) characterization of service. The applicant immediately went to work but has since lost five employments and fell into a major depression. The parents persuaded the applicant to seek medical assistance from VA. The applicant began seeing a psychiatrist and social worker for medications and therapy but quit going because of failing to maintain employment. When the depression continued and after seven months, the applicant began seeing a psychiatrist and social worker again. Despite being unable to maintain employment, the applicant continued receiving medical assistance and therapy. The applicant is currently recovering and looking forward to pursuing a degree in Neuroscience. An upgrade would allow the applicant to receive the Post 9/11 and Montgomery GI Bill benefits. The applicant believes to have received enough punishment and deserves to receive the educational benefits.

b. Board Type and Decision: In a records review conducted on 27 July 2023, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's PTSD and Major Depressive Disorder (MDD) mitigating applicant's AWOL basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

Please see Section 9 of this document for more detail regarding the Board's decision.

(Board member names available upon request)

3. DISCHARGE DETAILS: The applicant's Army Military Human Resource Record (AMHRR) is void of the complete case separation file. However, the AMHRR does include the separation authority's decision document which is described below in 3c(6)

a. Reason / Authority / Codes / Characterization: Misconduct (Minor Infractions) / AR 635-200, Chapter 14-12a / JKN / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 20 August 2012

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:** 1 August 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 30 January 2009 / 5 years

b. **Age at Enlistment / Education / GT Score:** 22 / GED / 95

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 11B10, Infantryman / 5 years, 2 months, 9 days

d. **Prior Service / Characterizations:** RA, 15 May 2007 – 3 October 2008 / HD
RA, 4 October 2008 – 29 January 2009 / HD

e. **Overseas Service / Combat Service:** SWA / Afghanistan (21 March 2008 – 23 March 2009; 16 August 2010 – 3 August 2011)

f. **Awards and Decorations:** ACM-3CS, ARCOM-3, NDSM, GWOTSM, ASR, OSR-2, NATOMDL, CIB / The applicant's AMHRR reflects award of the AGCM; however, the award is not reflected on the DD Form 214.

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** The applicant's DD Form 214 reflects the applicant had completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-12a, with a narrative reason of Misconduct (Minor Infractions). The DD Form 214 was authenticated with the applicant's electronic signature. The applicant had 26 days of lost time for the period 22 February to 18 March 2012.

The applicant's Enlisted Record Brief (ERB), dated 31 May 2012, reflects the applicant was flagged for Involuntary Separation or Discharge (Field Initiated) (BA), effective 20 April 2012 and Adverse Action (AA), effective 29 March 2012; was ineligible for reenlistment due to Pending Separation (9V). The Assignment Eligibility Availability code reflects the applicant was eligible for PCS reassignment, subject to normal PCS TOS restrictions. There is no termination date. The applicant was reduced from E-4 to E-1 effective 4 May 2012.

Permanent Orders 271-021, dated 29 September 2010, announces the applicant's "Good Conduct Metal Clasp (1st Award)" for period of service from 15 May 2007 to 14 May 2010.

i. Lost Time / Mode of Return: 26 days (AWOL, 22 February – 18 March 2012) / Returned to Military Control

j. Behavioral Health Condition(s):

(1) Applicant provided: VA Medical Records, dated from 21 January 2014 through 15 November 2015, indicate the applicant being diagnosed and treated, primarily, for Major Depressive Disorder, recurrent; Anxiety disorder; and Bipolar Disorder.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: Online application and VA 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 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 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 14-12a addresses minor disciplinary infractions, defined as a pattern of misconduct, consisting solely of minor military disciplinary infractions.

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 "JKN" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (minor infractions).

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 waivable and nonwaivable 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 waivable. 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's AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 14, paragraph 14-12a, by reason of Misconduct (Minor Infractions), with a characterization of service of general (under honorable conditions).

The applicant contends youth and immaturity may have affected the applicant's behavior which led to the discharge. The AMHRR shows the applicant met entrance qualification standards to include age.

The applicant contends having served two combat tours. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant's documentary evidence shows being diagnosed and treated for primarily depression, anxiety, and bipolar disorder. The applicant's AMHRR contains no documentation of any behavioral health diagnosis.

The applicant contends an upgrade would allow the Post 9/11 and Montgomery GI Bill educational benefits to pursue a degree in Neuroscience. Eligibility for veterans' 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.

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: MDD Disorder, PTSD, Anxiety, Bipolar Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant is service connected by the VA for MDD, and the VA has diagnosed the applicant with combat-related PTSD. There is no evidence to support that applicant's post-service diagnoses of Anxiety and Bipolar 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 there is evidence of mitigating BH conditions. The applicant is service connected by the VA for MDD, and the VA has diagnosed the applicant with combat-related PTSD. Given the nexus between Depression, PTSD, and avoidance, applicant's BH conditions likely contributed to the AWOL that led to applicant's separation and therefore, the AWOL is mitigated. There is no evidence that applicant's post-service diagnoses of Anxiety and Bipolar Disorder existed during military service, but this lack of evidence is inconsequential given that applicant's misconduct is fully mitigated by the MDD and PTSD diagnoses.

(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 and MDD outweighed the AWOL basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends youth and immaturity may have affected the applicant's behavior which led to the discharge. 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 and MDD fully outweighing the applicant's AWOL basis for separation.

(2) The applicant contends having served two combat tours. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record.

(3) The applicant's documentary evidence shows being diagnosed and treated for primarily depression, anxiety, and bipolar disorder. 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 and MDD fully outweighing the applicant's AWOL basis for separation.

(4) The applicant contends an upgrade would allow the Post 9/11 and Montgomery GI Bill educational benefits to pursue a degree in Neuroscience. 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.

c. The Board determined that the characterization of service was inequitable based on the applicant's PTSD and Major Depressive Disorder (MDD) mitigating applicant's AWOL basis for

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separation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them. 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 PTSD and MDD mitigated the applicant's misconduct of AWOL. Thus, the prior characterization is no longer appropriate.

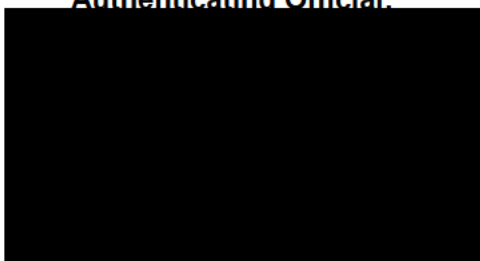
(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code as the reason the applicant was discharged was both proper and equitable.

(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: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

Authenticating Official:

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29/2023

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