

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

The applicant seeks relief contending, in effect, the discharge should be upgraded based on being diagnosed with PTSD, anxiety and panic disorders. The applicant contends submitting supporting documentation for proof of an unfair discharge from the military and several stories from people in newspapers who underwent a similar process and have similar stories coping with the same situation. The applicant has recently found these issues were not unique to oneself. The applicant also requested the DD Form 214 reflect award of the ARCOM.

b. **Board Type and Decision:** In a records review conducted on 27 April 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:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 21 June 2011

**c. Separation Facts:**

(1) **Date and Charges Preferred (DD Form 458, Charge Sheet):** On 3 May 2011, the applicant was charged with: Charge I: Violating Article 86, UCMJ, for being AWOL from on or about 23 February 2011, to on or about 26 March 2011.

(2) **Legal Consultation Date:** 9 May 2011

(3) **Basis for Separation:** Pursuant to the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

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

(5) **Separation Decision Date / Characterization:** 26 May 2011 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

a. **Date / Period of Enlistment:** 11 June 2009 / 4 years, 16 weeks

**b. Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 108

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10, Infantryman / 1 year, 10 months, 26 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Afghanistan (24 November 2009 – 31 May 2010)

**f. Awards and Decorations:** ACM-CS, NDSM, GWOTSM, ASR, NATOMDL, CIB

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Charge sheet as described in previous paragraph 3c.

CG Article 15, dated 28 October 2010, the section related to the charges states “see continuation sheet,” however the continuation sheet is not in the file. The punishment consisted of a reduction to E-2; forfeiture of \$426; extra duty and restriction for 14 days.

Military Police Report, dated 22 February 2011, reflects the applicant was apprehended for: Communications Incidents, Communicating a threat (other than telephone) (on post).

Five Personnel Action forms, reflect the applicant’s duty status changed as follows:

From “PDY” to “AWOL,” effective 23 February 2011;  
From “AWOL” to “DFR,” 25 March 2011;  
From “PDY” to “CCA,” effective 26 March 2011;  
From “DFR” to “PDY,” effective 26 March 2011; and  
From “CCA” to “PDY,” effective 7 April 2011.

Numerous Developmental Counseling Forms, for various acts of misconduct.

**i. Lost Time / Mode of Return:** 43 days:

AWOL, 23 February 2011 – 25 April 2011 / Apprehended by Civil Authorities  
CCA, 26 March 2011 – 7 April 2011 / Release From Confinement

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

**(1) Applicant provided:** Department of Veterans Affairs (VA) Summary of Benefits, dated 27 May 2016, reflects a combined service-connected evaluation of 100 percent.

Two VA Rating Decisions, dated 6 February and 21 August 2014, reflect a service connection for PTSD with an evaluation of 100 percent for PTSD.

**(2) AMHRR Listed:** Report of Medical Assessment, dated 7 December 2010, the examining medical physician noted in the comments section: In patient mental health facility currently seeing behavioral health and cleared by behavioral health for separation.

Report of Medical History, dated 7 December 2010, the examining medical physician noted in the comments section: Enrolled in ASAP is being seen by behavioral health.

Report of Behavioral Health Evaluation (BHE), dated 4 January 2011, reflects the applicant was mentally responsible and had the mental capacity to understand and participate in the proceedings. The applicant was cleared for any administrative actions deemed appropriate by command. The applicant was diagnosed with: Axis I: Adjustment Disorder with mixed disturbance of emotions and conduct. Axis II: Personality Disorder NOS (Antisocial and Borderline PD).

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 214; DD Form 293 and VA Summary of Benefits letter and two VA Rating Decisions.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant sought assistance for mental health.

**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 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

(5) Paragraph 10-8a stipulates a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. (See chap 3, sec II.)

(6) Paragraph 10b stipulates Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

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-4 Applies to: Person separated from last period of service with a nonwaivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

**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 evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The general (under honorable conditions discharge) received by the applicant was normal and appropriate under the regulatory guidance.

The applicant contends the discharge should be upgraded based on being diagnosed with PTSD, anxiety and panic disorders. The applicant contends submitting supporting documentation for proof of an unfair discharge from the military and several stories from people in newspapers who underwent a similar process and having similar stories coping with the same situation. However, these documents were not provided with the application. The applicant provided a copy a Department of Veterans Affairs Summary of Benefits, dated 20 May 2013, reflecting a combined service-connected evaluation of 100 percent, and two Rating Decisions, dated 4 February and 21 August 2014, reflecting a combined service-connected evaluation of 100 percent for PTSD. The applicant's AMHRR contains a Report of Medical Assessment, dated 7 December 2010, wherein the examining medical physician noted in the comments section: In patient mental health facility currently seeing behavioral health and cleared by behavioral health for separation. A Report of Medical History, dated 27 December 2010, the examining medical physician noted in the comments section: Enrolled in ASAP is being seen by behavioral health. A Report of Behavioral Health Evaluation (BHE), dated 4 January 2011, reflects the applicant was mentally responsible and had the mental capacity to understand and participate in the proceedings. The applicant was cleared for any administrative actions deemed appropriate by command. The applicant was diagnosis with: Axis I: Adjustment Disorder with mixed disturbance of emotions and conduct. Axis II: Personality Disorder NOS (Antisocial and

Borderline PD). The BHE and supporting medical documents were considered by the separation authority.

The applicant requests the DD Form 214 reflect award of the ARCOM. The applicant's requested change to the DD Form 214 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 applicant contends seeking assistance for mental health post-service. 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 ██████████ 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 and Adjustment Disorder.

(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 an Adjustment Disorder, and applicant is diagnosed and service connected by the VA for PTSD. Service connection establishes that applicant's PTSD existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that applicant was diagnosed in service with an Adjustment Disorder, and applicant is diagnosed and service connected by the VA for PTSD. Given the nexus between PTSD and avoidance, applicant's PTSD more likely than not contributed to the AWOL that led to applicant's separation. The Board's Medical Advisor opines that applicant's AWOL is partially mitigated by applicant's PTSD because there is evidence in the medical record that applicant's poor coping skills consistent with applicant's diagnosis of a personality disorder also contributed to the AWOL and a personality disorder is not a mitigating condition.

(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, while the applicant's PTSD partially mitigated the applicant's AWOL, the applicant's PTSD does not fully outweigh the medically unmitigated AWOL offense as the evidence supports the applicant AWOL is, in part, is the result of the applicant's poor coping mechanism which does not warrant full medical mitigation.

b. Response to Contention(s):

(1) The applicant contends the discharge should be upgraded based on being diagnosed with PTSD, anxiety and panic disorders. The Board considered this contention and determined the applicant's was diagnosed with PTSD and Adjustment disorder. The applicant's PTSD partially mitigates the AWOL charges, however, additional misconduct was found in applicant's records of writing bad checks, dereliction of duty, disobeying a no contact order and adultery, which is not mitigated or outweighed by applicant's PTSD and Adjustment disorder.

(2) The applicant requests the DD Form 214 reflect award of the ARCOM. The Board determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 149 regarding this matter. A DD Form 149 may be obtained from a Veterans' Service Organization.

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 PTSD and Adjustment disorder fully outweigh the offenses of AWOL. Further, the Board determined that additional misconduct in the file of writing bad checks, dereliction of duty, disobeying a no contact order and adultery is not excused or mitigated by applicant's PTSD and adjustment disorder. 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.

(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.

(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:**

12/29/2023

**X**

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