

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 27 August 2020
- b. **Date Received:** 15 September 2020
- 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 Under Other than Honorable Conditions. The applicant requests an upgrade to Honorable and both of their separation and re-entry codes changed.

b. The applicant seeks relief contending, they believe their discharge was improper due to a number of factors contributing to the applicant not attending reserve drill for several months. In November 2014, they missed drill for the first time due to having received a "Goodbye" text message from their parent and without thinking, they went directly to their residence to find several servings of food and water for the dogs [to keep them fed since they planned on being deceased]. The applicant found several signs around the parent's house exclaiming how sorry the parent was and to call 911 because they were dead. The applicant found their parent in the room and wrestled a loaded 12-gauge shotgun out of their hands before discharging the round into the ceiling. At this time, the applicant was a law enforcement officer for the state. The applicant, along with other police officers, and Emergency Medical Services (EMS) escorted the parent out of the home to the hospital. Two of the applicant's NCOs (SFC and SGT) were there to check on the applicant when they missed drill and the applicant saw the NCOs in their parent's driveway, and after they exited the house; the two NCOs could see the applicant's distress and knew why the applicant missed drill.

(1) The applicant subsequently missed three more months of drill due to their parent needing extensive care; the applicant used all their vacation, holiday, and sick time to take care of their parent. Their work performance also drastically declined due to this situation. The applicant was told over the phone, they would receive an Other than Honorable (OTH) discharge, however, they never received any paperwork and never had a chance to plead their case. On 31 October 2015, the applicant responded to a person with a gun call, having taken the call because it was in their neighborhood, and they were prepared to take lunch afterwards. When they arrived on the scene, the applicant's neighbor informed the applicant, the person with a gun was indeed the applicant's parent, in which they immediately called for EMS and more units. When the applicant entered the residence, the applicant saw their parent standing by the door with no weapon in sight. The applicant was dumbfounded and asked the parent what was wrong; their parent approached them, gave them a hug, said "I love you, buddy" and turned and went into their room. They were so confused and shocked and had not realized their parent had shut the door, until they heard bags being stacked against the door, and the applicant heard a shotgun cocking. The applicant ran to the door and kicked it open just in time to see their parent take their own life, adding to the 22 veterans a day that do so.

(2) The applicant regrets what happened and how it was handled daily. This incident ended their career in law enforcement, after having missed several months of work, they were diagnosed with Post Traumatic Stress Disorder (PTSD), Grief and Depression. This was a situation that no one should have to go through or see happen to a loved one and they do not believe they should be punished for the rest of their life for choosing to try to help their parent over attending scheduled drill dates. The applicant recognizes the U.S. Army Reserves was an

obligation the applicant signed up for, however, they saw no other options at the time and desired to take care of their parent.

(3) The applicant contends, had this situation not happened, they would have received an Honorable Discharge. This situation set off a chain reaction in their life which led to their divorce, being in debt, and the decline of their work ethic. They were extremely depressed, unable to find a way out of the hole they were in, after witnessing their parent commit suicide. They have been working diligently to rebuild their life by getting out of debt, being positive, and working harder than ever. The applicant has learned they are unable to change their past, however, they can take steps to make things right.

(4) Currently, the applicant works as a Defense contractor on Schriever AFB, CO and holds a Secret clearance for a mission essential position with the Global Broadcasting Services Operations Center (GBSOC). This company has looked past the biggest mistake of their life, and after seeing the evidence and reason, decided to employ them, in which the applicant is grateful. They wish to provide their side of the story and an opportunity to end their service the right way, and to possibly have the option to do it all over again. The applicant's daily wish is to have the opportunity to serve or ability to make different choices which would have led to their parent still being here, however it is in the past and all they can do is plead their case and hope something favorable comes from it.

c. Board Type and Decision: In a records review conducted on 26 January 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's behavioral health conditions (Unspecified Depressive Disorder while caring for his mentally ill father) fully mitigating the circumstances surrounding the discharge. The Board also considered the applicant's length of service and post service accomplishments. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: NIF / AR 135-178 / NIF / NIF / Under Other than Honorable Conditions

b. Date of Discharge: 8 February 2015

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:** NA

(6) **Separation Decision Date / Characterization:** NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 10 November 2009 / 6 years

b. Age at Enlistment / Education / GT Score: 17 / High School Diploma / NIF

c. Highest Grade Achieved / MOS / Total Service: NIF / 15P10 Aviation Ops Spec / 00 years and NET active service 1 month, 28 days; cumulative service 4 years

d. Prior Service / Characterizations: NIF

e. Overseas Service / Combat Service: NIF

f. Awards and Decorations: NDSM, GWOTSM, ASR, Basic Airman Badge

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 10 November 2009, the applicant enlisted in the United States Army Reserves (USAR) for 6 years as a PV2. On 7 September 2011, the applicant was promoted to SPC.

(2) A DD Form 214 (Certificate of Release of Discharge from Active Duty) provides the period of service between 1 June 2010 – 10 September 2011, with the following listed:

- Authority: Release From Active Duty Training
- Narrative Reason: Completion of Required Active Service
- SPD Code: MBK
- Reentry Code: NA
- Service Characterization: Honorable
- Total NET Active Service this Period: 1 month and 28 days
- Remarks: Separated from service on temporary records and Soldier's affidavit; DD Form 215 will be issued to provide missing information.
- Lost Time: None
- Signature: electronically signed by the applicant

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) **Applicant provided:** On 1 May 2020, the applicant provided four physician's notes from their electronic medical record, which indicate the applicant was treated in 2015 for PTSD, stress reaction, and grief, which is now resolved and well controlled with diet, exercise, and good social support without medications at this time. They were excused from work from 31 October – 30 December 2015, unless cleared by Mental Health; the paperwork for the applicant to utilize their Family and Medical Leave Act (FMLA) was completed.

(2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Application for the Review of Discharge); Four Physician's Notes; Death Certificate for the applicant's parent; Suicide Notes left by their Parent

6. POST SERVICE ACCOMPLISHMENTS: The applicant has rebuilt their life and overcame their past. They are a Defense contractor in Colorado and obtained a Secret clearance for a mission essential position with the Global Broadcasting Services Operations Center (GBSOC).

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), dated 25 September 2019, sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 135-178 sets forth the policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard and USAR enlisted Soldiers for a variety of reasons. The separation policies throughout the different Chapters in this regulation promote the readiness of the Army by providing an orderly means to judge the suitability of persons to serve on the basis of their conduct and their ability to meet required standards of duty performance and discipline. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, and convictions by civil authorities.

(1) The possible characterizations include an honorable, general (under honorable conditions), under other than honorable conditions, or uncharacterized if the Soldier is in entry-level status. However, the permissible range of characterization varies based on the reason for separation.

e. The characterization is based upon the quality of the Soldier's service, including the reason for separation and determination in accordance with standards of acceptable personal conduct and performance of duty as found in the UCMJ, Army regulations, and the time-honored customs and traditions of the Army. The reasons for separation, including the specific circumstances that form the basis for the discharge are considered on the issue of characterization.

8. SUMMARY OF FACT(S): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. The applicant requests an upgrade to Honorable and both of their separation and re-entry codes changed. A review of the AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the Army Reserve. Although a copy of the separation orders are present and show a characterization of Under Other than Honorable Conditions, the orders show only the separation authority and are void of a narrative reason and whether the separation was voluntary and/or involuntary. Additionally, they were reduced to the lowest enlisted grade.

(1) The available evidence provides the applicant enlisted in the USAR for 6 years as a PV2 and promoted to SPC. Notwithstanding the administrative irregularity, the applicant contends the first missed drill in November 2014, was due to having witnessed a parent attempt suicide and was forced to wrestle a shotgun from the parent. The applicant's SFC and SGT came to the parent's house looking for the applicant and saw the applicant in distress. The applicant subsequently missed three more months of drill taking care of the parent who needed extensive care. As a police officer, in their civilian profession, the applicant used up all of the applicant's vacation, holiday, and sick leave. While on duty on 31 October 2015, the applicant was called to the applicant's home, answering the call of "a person with a gun", and witnessed

the applicant's parent commit suicide. The applicant was notified by phone the applicant would receive an OTH; however, the applicant never received anything in the mail or had an opportunity to plead their case.

(2) The applicant provided four notes from their electronic medical record, indicating the applicant was treated in 2015 for PTSD, stress reaction, and grief, which is now resolved and well controlled with diet, exercise, and good social support without medications at this time. They were excused from work from 31 October – 30 December 2015, unless cleared by Mental Health; the paperwork for the applicant to utilize their Family and Medical Leave Act (FMLA) was completed.

b. Due to the absence of required records in the AMHRR and the lack of required information in the published separation orders, we are unable to identify the narrative reason for discharge according to Army Regulation 135-178.

c. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

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; Depression.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found both diagnoses of Post-Traumatic Stress Disorder and Depression were made after applicant was separated from the military. However, based on the applicant's statement, the applicant likely developed an Unspecified Depressive disorder while caring for his mentally ill father.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor determined that the medical condition or experience does mitigate the basis of separation. The applicant contends that the demands of the applicant's father's psychiatric illness impacted the applicant's ability to attend drill due to the need to provide care to the applicant's father. The applicant's father ultimately committed suicide after which the applicant was diagnosed with Post-Traumatic Stress Disorder and Depression. Given the circumstances of the applicant's father's illness, it is the opinion of the Board's Medical Advisor that the applicant's explanation regarding why the applicant missed multiple drills is credible. The applicant likely developed an Unspecified Depressive Disorder while addressing their father's multiple mental health needs. As there is an association between this disorder and avoidant behaviors, there is a nexus between the applicant's depressive condition and the applicant missing multiple USAR drills.

(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 Unspecified Depressive Disorder outweighed the basis for separation (missing multiple USAR drills) for the aforementioned reasons.

b. Response to Contention(s):

(1) The applicant seeks relief contending, their discharge was improper because during the first missed drill in November 2014, the applicant's parent attempted to commit suicide and the applicant was forced to wrestle a loaded 12-gauge shotgun out of the parent's hands, before discharging the round into the ceiling. As the applicant, other police officers, and EMS escorted the parent to the hospital, the applicant recalls seeing their NCOs (SFC and SGT) in the parent's driveway; the NCOs witnessed why the applicant missed drill and the applicant's distress. The applicant subsequently missed three more months of drill due to taking care of the applicant's parent and using all their vacation, holiday, and sick time for the extensive care of their parent. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the circumstances surrounding the discharge that include the applicant's medical condition (Unspecified Depressive Disorder while caring for his mentally ill father) and the applicant's length of service and post service accomplishments fully outweighing the applicant's basis for separation (missing multiple USAR drills).

(2) The applicant contends they were told over the phone the discharge would be characterized as OTH; however, the applicant never received any paperwork to the affect or had a chance to plead their case. 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 medical condition (Unspecified Depressive Disorder while caring for his mentally ill father) fully mitigating the applicant's basis for separation (missing multiple USAR drills). The Board also considered the applicant's length of service and post service accomplishments.

(3) The applicant contends they regret what happened but feels they should not be punished for the rest of their life for choosing to help their parent over going to scheduled drills. This incident ended the applicant's career in law enforcement and after missing several months of work, the applicant was diagnosed with PTSD, Grief, and Depression. This was a situation no one should have to go through or see happen to a loved one. 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 medical condition (Unspecified Depressive Disorder while caring for his mentally ill father) and the applicant's length of service and post service accomplishments, fully outweighing the applicant's basis for separation (missing multiple USAR drills).

(4) The applicant contends, had this situation not happened, the applicant would have received an Honorable Discharge. This situation set off a chain reaction in the applicant's life which led to the applicant's divorce, being in debt, and the decline of the applicant's work ethic. The applicant was extremely depressed, unable to find a way out of the hole the applicant was in, after witnessing their parent commit suicide. The applicant has been working diligently to rebuild their life by getting out of debt, being positive, and working harder than ever. The applicant has learned and understands they are unable to change their past, however, they can take steps to make things right. 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 medical conditions and circumstances (Unspecified Depressive Disorder while caring for his mentally ill father), length of service, and post service accomplishments fully outweighing the applicant's basis for separation (missing multiple USAR drills).

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c. The Board determined that the characterization of service was inequitable based on the applicant's medical conditions and the circumstances surrounding the discharge (Unspecified Depressive Disorder while caring for his mentally ill father). The board also considered the applicant's length of service and post service accomplishments. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's medical conditions and the circumstances surrounding the discharge (Unspecified Depressive Disorder while caring for his mentally ill father) fully mitigated the applicant's misconduct of missing multiple USAR drills. The Board also considered the applicant's length of service and post service accomplishments. Thus, the prior characterization is no longer appropriate.

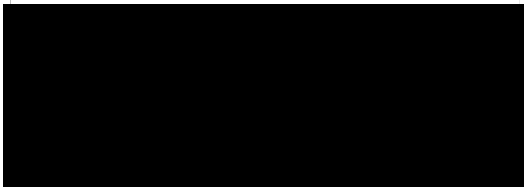
(2) As there were no Reasons/SPD Codes/RE-codes listed on the applicant's discharge paperwork, due to being in the Army Reserves, no upgrade actions are required for these items.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214 / Separation Order: Yes**
- b. **Change Characterization to: Honorable**
- c. **Change Authority to: AR 135-178**

Authenticating Official:

2/16/2024



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