

1. Applicant's Name: [REDACTED]**a. Application Date:** 21 April 2021**b. Date Received:** 21 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 Under Other than Honorable Conditions. The applicant requests a DD Form 214 (Certificate of Release or Discharge from Active Duty) from their period of Honorable service from 11 July 2001 – 6 July 2004.

(1) The applicant seeks relief contending, having only received the one DD Form 214 when the applicant separated from the Army, makes it appear as if their whole time in service was characterized as Under Other than Honorable Conditions. Due to this clerical error, they have endured great difficulties in the civilian world obtaining employment and it has greatly impacted their life in a negative way. They were unaware of the missing DD Form 214, until it was brought to the applicant's attention by a third party in January 2021, while receiving help in obtaining employment, when this was pointed out and the implications of it explained.

(2) They are extremely proud of this period of service, as the applicant served their country Honorably, fought in Operation Iraqi Freedom, and maintained an exemplary record. During this time, the applicant promoted from PV2 (E-2) to SGT (E-5) and was bestowed many awards, to include the Army Commendation Medal, the Meritorious Unit Commendation, and the Good Conduct Medal, just to name a few. This error should be corrected to reflect the true characterization of this period of their service as being Honorable.

b. Board Type and Decision: In a records review conducted on 6 September 2024, and by a 3-2 vote, the Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (the trauma occurred before the Absent Without Leave (AWOL) and given the nexus between trauma and avoidance, the AWOL is mitigated. However, trauma is unrelated to borrowing money or appropriating another's property). Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General, Under Honorable Conditions. 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 are 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 / Under Other than Honorable Conditions

b. Date of Discharge: 4 April 2008

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** NIF

(2) **Basis for Separation:** Pursuant to the applicant's request for voluntary discharge provision of AR 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

(3) **Recommended Characterization:** NIF

(4) **Legal Consultation Date:** Undated

(5) **Administrative Separation Board:** NIF

(6) **Separation Decision Date / Characterization:** 12 March 2008 / Under Other than Honorable Conditions

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 7 July 2004 / 4 years

b. **Age at Enlistment / Education / GT Score:** 21 / High School Diploma / 85

c. **Highest Grade Achieved / MOS / Total Service:** E-6 (SSG) / 11B30 Infantryman / 6 years, 8 months, 24 days

d. **Prior Service / Characterizations:** RA, 11 July 2001 – 6 July 2004 / Honorable

e. Overseas Service / Combat Service:

(1) Oman / None (1 February – 15 March 2002)

(2) SWA / Kuwait (1 March 2003 – 1 February 2004)

f. Awards and Decorations:

- Army Commendation Medal (2nd Award)
- Army Achievement Medal (4th Award)
- Valorous Unit Award
- Army Good Conduct Medal
- National Defense Service Medal
- Global War on Terrorism Expeditionary Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal
- Non-Commissioned Officer-Professional Development Ribbon
- Overseas Service Ribbon
- Combat Infantry Badge
- Expert Infantry Badge
- Air Assault Badge

g. Performance Ratings:

(1) SGT, 1 September 2004 – 31 August 2005 / Amongst the Best

(2) SSG, 1 September 2005 – 31 August 2006 / Fully Capable

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 7 July 2004, the applicant completed their first reenlistment as a SGT (E-5) for 4 years, with 2 years, 11 months, and 26 days of prior service.

(2) The Enlisted Record Brief provides the applicant served over a month in Mauritius (1 February – 15 March 2002); deployed to Iraq in Support of Operation Iraqi Freedom (OIF) for 11 months (1 March 2003 – 1 February 2004); on 1 June 2006, was promoted to SSG; on 21 February 2008, they were flagged, Suspend Favorable Personnel Actions (FLAG), for adverse action (AA).

(3) On 22 February 2008, charges were preferred for the following violations of the UCMJ; Article 86: On or between 1 June – 6 September 2007, for having been absent without leave (AWOL) at or near Fort Campbell, KY; Article 92: On or about 10 November 2006, for violating a lawful general regulation (CAM Regulation 210-1), by borrowing \$700 from SPC D.; Article 121: On or between 15 November 2006 – 31 May 2007, did, wrongfully appropriated the property (a dirt bike) of SPC C., of a value of more than \$500.

(4) On 10 March 2008, after consulting with counsel, the applicant voluntarily requested discharge for the good of the service in lieu of trial by court-martial under the provisions of Army Regulations 635-200, Chapter 10, discharge in lieu of trial by court-martial. In their request, they affirmed no one had subjected them to coercion, counsel advised them of the implications of their request, and the applicant further acknowledged they were guilty of the charge against them or a lesser one, understanding they may be discharged Under Other than Honorable Conditions, characterization of service and elected to submit a statement on their behalf.

(a) Defense counsel endorsed their voluntary discharge request, acknowledging the applicant was counseled on the possible effects of an Under Other than Honorable Conditions characterization of service.

(b) In a self-authored statement, the applicant provides they do not seek to evade responsibility for their actions, however, request their service record be considered when deciding their characterization of service. In light of their service record, the applicant desired a General (Under Honorable Conditions) characterization, as they have served their country Honorable, obtained the benefits of years of training, which was put to good use for the U.S. Army and its Soldiers. In support of their petition, they have provided 29 enclosures of their various recognition and awards, as well as their noncommissioned officers evaluation reports (NCOERs).

(c) On 11 March 2008, the company, battalion, brigade commanders, and staff judge advocate, all recommended approval of the applicant's request, with an Under Other than Honorable Conditions characterization of service.

(5) The same day, the separation approval authority approved the applicant's voluntary discharge request, with an Under Other than Honorable Conditions characterization of service and reduced to the lowest enlisted paygrade.

(6) On 26 March 2008, their separation orders were issued. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was

discharged accordingly on 4 April 2008, with 6 years, 9 months, and 10 days of total service. The applicant provided their physical signature and has completed their first full term of service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: ACTS Online Application; Certificate of Release or Discharge from Active Duty; 27 Awards, Certificates and Recognitions; Veterans Affairs Service Letter; Two Noncommissioned Officer Evaluation Report (NCOER) for SGT and SSG

6. POST SERVICE ACCOMPLISHMENTS: None submitted with this 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), 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 635-200 (Active Duty Enlisted Administrative Separations), set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) 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.

(2) 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.

(3) An Under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial

based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(4) Chapter 10, Discharge in Lieu of Trial by Court Martial is applicable to members who committed an offense or offenses for which the authorized punishment included a bad conduct or dishonorable discharge could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or general was authorized, an under other than honorable conditions discharge was considered appropriate, unless the record was so meritorious it would warrant an honorable. After receiving legal counseling, the soldier may elect to submit a request for discharge in lieu of trial by court-martial. The soldier will sign a written request, certifying that they have been counseled, understands their rights, and may receive a discharge under other than honorable conditions. The following will accompany the request for discharge:

- A copy of the court-martial Charge Sheet (DD Form 458)
- Report of medical examination and mental status evaluation, if conducted
- A complete copy of all reports of investigation
- Any statement, documents, or other matter considered by the commanding officer in making their recommendation, including any information presented for consideration by the soldier or consulting counsel
- A statement of any reasonable ground for belief that the soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

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 waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

(1) RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaiverable 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.

g. Army Regulation 631-10 (Absence, Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings) provides policies and procedures for reporting unauthorized absentees and deserters, the administering of absent without leave (AWOL) personnel and deserters, returning absentees and deserters to military control and the surrendering of military personnel to civilian law enforcement authorities. When a soldier returns from an absence that is or appears to be unauthorized, the unit commander informally investigates whether disciplinary action should be taken and if the soldier be charge with time lost.

(1) Classification of an absence is dependent upon such factors as the following:

- Order and instructions, written/oral, the Soldier received before/during absence
- Age, military experience, and general intelligence of the Soldie
- Number and type of contact the Soldier had with the military absent
- Complete or incomplete results of a court-martial decision if any

(2) An absence immediately following authorized leave is classified as AWOL. Should the absence subsequently be reclassified, the soldiers leave is corrected to reflect the reclassified absence, except if the absence is caused by the following:

- Mental incapacity
- Detention by civilian authorities
- Early departure of a mobile unit due to operational commitments

h. Manual for Courts-Martial (2005 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military laws is to promote justice, to assist in maintaining good orders and discipline in the Armed Forces. Article 86 (absence without leave) states in subparagraph being absent without leave for more than 30 days, the maximum punishment consists of a dishonorable discharge, forfeiture of all pay and allowances, and confinement for one year.

(1) Article 92 (failure to obey order, regulation) states in subparagraph, the maximum punishment consists of a dishonorable discharge, forfeiture of all pay and allowances, and confinement for two years.

(2) Article 121 (wrongful appropriation, of value of more than \$500.00) in subparagraph, the maximum punishment consists of a bad conduct discharge, forfeiture of all pay and allowances, and confinement for six months.

i. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual

concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered, medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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

b. The available evidence provides the applicant reenlisted in the RA as a SGT, with nearly 3 years of active service. They deployed for overseas (Oman and Kuwait) for a year, promoted to SSG, and served 3 years, 7 months, and 14 days prior to having been flagged for the misconduct leading to their discharge. They were charged for having been AWOL (June – September 2007); for borrowing \$700 from a SPC, in violation of a lawful regulation; and for having wrongfully appropriated another SPC's property (dirt bike), valuing more than \$500. The charges were preferred to court-martial. After consulting with defense counsel, the applicant requested to be voluntarily discharged in lieu of trial by court-martial, electing to submit a statement on their behalf. They were separated with an Under Other than Honorable Conditions characterization of service.

(1) The record is void of a medical and/or mental status examination, although, not required for a voluntary discharge request, this can be requested by the Soldier.

(2) The applicant served 3 years, 8 months, and 28 days of their 4-year contractual obligation.

c. Army Regulation 635-200 states Chapter 10 is a voluntary discharge request in-lieu of trial by court-martial. A discharge under other than honorable conditions normally is appropriate for a soldier who is discharge 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. For 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.

d. 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: the applicant held in-service diagnoses of Adjustment Disorder and Post Traumatic Stress Disorder (PTSD). Post-service, he is service connected for combat related Post Traumatic Stress Disorder (PTSD).

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant held in-service diagnoses of Adjustment Disorder and PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that the trauma occurred before the Absent Without Leave (AWOL) and given the nexus between trauma and avoidance, the AWOL is mitigated. However, trauma is unrelated to borrowing money or appropriating another's property.

(4) Does the condition or experience outweigh the discharge? **NO.** The condition only outweighs the AWOL. Trauma is unrelated to borrowing money or appropriating another's property.

b. Response to Contention(s):

(1) The applicant seeks relief contending, having only received the one DD Form 214 when the applicant separated from the Army, makes it appear as if their whole time in service was characterized as Under Other than Honorable Conditions. Due to this clerical error, they have endured great difficulties in the civilian world obtaining employment and it has greatly impacted their life in a negative way. They were unaware of the missing DD Form 214, until it was brought to the applicant's attention by a third party in January 2021, while receiving help in obtaining employment, when this was pointed out and the implications of it explained. 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 the trauma occurring before the Absent Without Leave (AWOL) and given the nexus between trauma and avoidance, the AWOL is mitigated. However, trauma is unrelated to borrowing money or appropriating another's property.

(2) The applicant contends, they are extremely proud of this period of service, as the applicant served their country Honorably, fought in Operation Iraqi Freedom, and maintained an exemplary record. During this time, the applicant promoted from PV2 (E-2) to SGT (E-5) and was bestowed many awards, to include the Army Commendation Medal, the Meritorious Unit Commendation, and the Good Conduct Medal, just to name a few. This error should be corrected to reflect the true characterization of this period of their service as being Honorable. 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 the trauma occurring before the Absent Without Leave (AWOL) and given the nexus between trauma and avoidance, the AWOL is mitigated. However, trauma is unrelated to borrowing money or appropriating another's property.

c. The Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (the trauma which occurred before the Absent Without Leave (AWOL) and due to the nexus between trauma and avoidance, the AWOL is mitigated. However, trauma is unrelated to borrowing money or appropriating another's property). Accordingly, the Board voted to grant relief in the form of an

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upgrade to the characterization of service to General, Under Honorable Conditions. The Board determined the narrative reason, SPD code, and RE code were proper and equitable and voted not to change them.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to General, Under Honorable Conditions because the applicant's trauma occurred before the Absent Without Leave (AWOL) and due to the nexus between trauma and avoidance, the AWOL is mitigated. However, trauma is unrelated to borrowing money or appropriating another's property. 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.

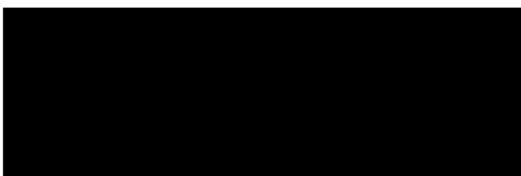
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** General, Under Honorable Conditions
- c. Change Reason / SPD Code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** AR 635-200

Authenticating Official:

7/8/2025



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
UOTH – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs