

1. Applicant's Name: [REDACTED]**a. Application Date:** 16 February 2021**b. Date Received:** 22 February 2021**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant's Requests and Issues: The current characterization of service for the period under review is bad conduct. The applicant requests, through counsel, an upgrade to honorable along with a reentry (RE) code and a narrative reason change.

The applicant's counsel seeks relief contending, in effect, the discharge was inequitable due to the impact of the applicant's combat-induced post-traumatic stress disorder (PTSD) and associated symptoms which constitutes mitigating factors surrounding the misconduct for which the applicant was court-martialed and subsequently separated. The applicant is entitled to de novo review and liberal consideration of evidence in support of contentions under the various memoranda issued by U.S. Secretaries of Defense.

b. Board Type and Decision: In a records review conducted on 4 December 2024, and by a 5-0 vote, the board determined that the discharge was inequitable based on the applicant's In-service Adjustment Disorder with Antisocial Personality traits and length of service mitigating the applicant's misconduct. Post service the applicant is diagnosed with combat related PTSD. Accordingly, the board voted to grant relief in the form of an upgrade of the characterization of service to Under Other Than Honorable Conditions.

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: Court-Martial, Other / AR 635-200, Chapter 3 / JJD / RE-4 / Bad Conduct

b. Date of Discharge: 28 January 2011

c. Separation Facts:

(1). Pursuant to Special Court-Martial Empowered to Adjudge a Bad-Conduct Discharge: As announced by Special Court-Martial Order Number 4, 26 February 2010, the applicant was found guilty of quitting the unit on or about 24 December 2008, with intent to avoid hazardous duty, namely Deployment to Iraq and remained absent in desertion until on or about 8 January 2009; the applicant was found guilty of quitting the unit on or about 1 May 2009, with intent to avoid hazardous duty, namely Deployment to Iraq and remained absent in desertion until on or about 15 June 2009; the applicant failed to go at the prescribed time to the appointed place of duty on two separate occasions; the applicant failed to obey a lawful order on or about 25 June 2009; the applicant failed to obey a lawful regulation on or

about 7 July 2009; on or about 31 May 2009 and on or about 30 June 2009, the applicant wrongfully used marijuana; between on or about 27 June 2009 and on or about 30 June 2009, the applicant wrongfully used cocaine; between on or about 6 June 2009 and on or about 6 July 2009, the applicant wrongfully used marijuana; between on or about 3 July 2009 and on or about 6 July 2009, the applicant wrongfully used cocaine; and on or about 30 July 2009, the applicant physically controlled a vehicle while drunk.

(2) Adjudged Sentence: To be reduced to the grade of private/E-1; confinement for 8 months; and be discharged from the service with a Bad Conduct discharge.

(3) Date/Sentence Approved: 4 November 2009 / only so much of the sentence as provides for a reduction to E-1; confinement for 5 months; and a bad conduct discharge was approved and, except for that part of the sentence extending to a bad conduct discharge, would be executed.

(4) Appellate Reviews: NIF

(5) Date Sentence of BCD Ordered Executed: 16 September 2010

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 4 March 2008 / 3 years, 16 weeks
- b. **Age at Enlistment / Education / GT Score:** 18 / GED / NIF
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10, Infantryman / 2 years, 4 months, 25 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** Alaska / NIF
- f. **Awards and Decorations:** NDSM, GWOTSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** See Court-Martial Order Number 4 as described in item 3c (1).
- i. **Lost Time / Mode of Return:** AWOL X 60 days (24 December 2008 – 8 January 2009), (1 May 2009 – 15 June 2009) / NIF
Confinement X 119 days (4 November 2009 – 3 March 2010) / Released
- j. **Behavioral Health Condition(s):**
 - (1) Applicant provided:** The applicant's counsel provides a letter from a therapist with the Department of Veteran Affairs (VA), 4 February 2021, which reflects the applicant was diagnosed with war related trauma symptoms consistent with PTSD.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, Counsel's Brief with 7 exhibits (47 total pages)

6. POST SERVICE ACCOMPLISHMENTS: The applicant has been drug-free for over five years and is a model citizen, loving husband, and father.

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 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) Paragraph 3-7c states 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.

(5) Section IV establishes policy and procedures for separating members with a dishonorable or bad conduct discharge; and provides that a Soldier will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial; and that the appellate review must be completed, and the affirmed sentence ordered duly executed. Because relevant and material facts stated in a court-martial specification are presumed by the ADRB to be established facts, issues relating to the applicant's innocence of charges for which he was found guilty cannot form a basis for relief. With respect to a discharge adjudged by a special court-martial, the action of the ADRB is restricted to upgrades based on clemency. Clemency is an act of leniency that reduces the severity of the punishment.

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 "JJD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 3, Court Martial, Other.

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:

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.

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.

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.

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, through counsel, an upgrade to honorable along with a RE code and narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's counsel requests the applicant's narrative reason for the discharge be changed. The applicant was separated under the provisions of Chapter 3, AR 635-200 with a bad conduct discharge. The narrative reason specified by Army Regulations for a discharge under this chapter is "Court-Martial, Other," and the separation code is "JJD." Army Regulation 635-8, Separation Processing and Documents, governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be listed in tables 2-2 or 2-2 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason or SPD code to be entered under this regulation.

The applicant's counsel requests the applicant's RE code be changed. The applicant was separated under the provisions AR 635-200, chapter 3, due to Court-Martial, Other, with a bad conduct discharge and a RE code of "4." Army Regulation 601-210 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. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1 defines reentry eligibility (RE) codes. 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.

The applicant's AMHRR indicates the applicant was adjudged guilty by a court-martial and the sentence was approved by the convening authority. With respect to a discharge adjudged by a special court-martial, the action of the ADRB is restricted to upgrades based on clemency. Clemency is an act of leniency that reduces the severity of the punishment.

The applicant's counsel contends the discharge was inequitable due to the impact of the applicant's combat-induced PTSD and associated symptoms which constitutes mitigating factors surrounding the misconduct for which the applicant was court-martialed and

subsequently separated. The applicant's AMHRR is void of a mental health diagnosis. The applicant's counsel provides a letter from a therapist with the Department of Veteran Affairs (VA), 4 February 2021, which reflects the applicant was diagnosed with war related trauma symptoms consistent with PTSD.

The applicant's counsel contends the applicant is entitled to de novo review and liberal consideration of evidence in support of contentions under the various memoranda issued by U.S. Secretaries of Defense.

The applicant's counsel states the applicant had honorable service, including a combat tour. The Board will consider the applicant service accomplishments and the quality of service according to the DODI 1332.28. The applicant's AMHRR is void of the dates of deployments.

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: In-service Adjustment Disorder with Antisocial Personality traits. Civilian post-service diagnosis of combat related PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** In-service Adjustment Disorder with Antisocial Personality traits. Civilian post-service diagnosis of combat related PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given the trauma occurred prior to the misconduct and nexus between trauma, avoidance, difficulty with authority, relational issues, and substance use the basis is mitigated.

(4) Does the condition or experience outweigh the discharge? **No.** Although the Board agreed with the Medical Advisor assessment the totality of the misconduct was not outweighed by the mitigation.

b. Response to Contention(s):

(1) The applicant's counsel contends the discharge was inequitable due to the impact of the applicant's combat-induced PTSD and associated symptoms which constitutes mitigating factors surrounding the misconduct for which the applicant was court-martialed and subsequently separated. The board considered this contention during proceedings and determined that relief was warranted based on the applicant's in-service Adjustment Disorder with Antisocial Personality traits outweighing the applicant's drug abuse basis for separation.

(2) The applicant's counsel contends the applicant is entitled to de novo review and liberal consideration of evidence in support of contentions under the various memoranda issued by U.S. Secretaries of Defense. The board considered this contention during proceedings, but ultimately did not address the contention due to relief being granted as outlined above in paragraph 9a (3-4) and 9b (1) of this document.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20210009514**

c. The board determined the characterization is inequitable based on the applicant's in-service Adjustment Disorder with Antisocial Personality traits mitigated the applicant's drug use. The Board determined that because of the totality of the misconduct that a full upgrade is not warranted. Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to Under Other Than Honorable Conditions.

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization of service to Under Other Than Honorable Conditions because the applicant's trauma occurred prior to the misconduct and there is a nexus between substance use mitigating the misconduct - substance abuse. 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 under the same pretexts, as the reason the applicant was discharged was both proper and equitable.

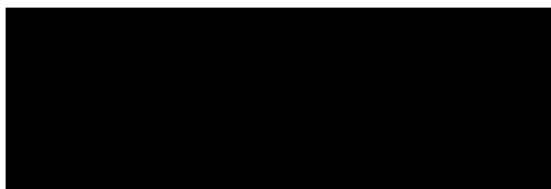
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: Under Other Than Honorable Conditions
- c. Change Reason / SPD code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

Authenticating Official:

2/4/2026

**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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs