

1. Applicant's Name: [REDACTED]**a. Application Date:** 10 August 2020**b. Date Received:** 17 May 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 Under Other than Honorable Conditions. The applicant requests an upgrade to Honorable.

b. Counsel states: It is their understanding, the applicant was discharged for Unsatisfactory Performance while in the Ready Reserve; however, there are no records of any certified mail or other correspondence indicating the applicant was subject to Unsatisfactory Performance/Participation actions. The applicant Honorably served on active duty as an Infantryman for 3 years, 4 months, and 11 days from 2005 to 2008.

(1) The applicant, through counsel, requested records from the National Archives and Records Administration (NARA) and the only record produced, was their DD Form 214 (Certificate of Release for Discharge from Active Duty). Although their home of record (HOR) at the time was Texas, they were assigned to the 315th Engineer Battalion, California and had only received the Reserve discharge orders.

(2) It appears the California unit was not adequately corresponding with the applicant and initiated separation. Given the applicant's history of Honorable service, the lack of correspondence notifying the applicant of their separation processing, and the significant adverse consequences of an Under Other than Honorable Conditions, their characterization should be upgraded.

c. Board Type and Decision: In a records review conducted on 8 March 2024, and by a 5-0 vote, the board determined that the characterization was inequitable based on the applicant's in-service mitigating factors length of service, and the circumstances surrounding the discharge outweigh the basis of separation - Unsatisfactory participation ((missing drills). Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to General Under Honorable Conditions.

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 3 June 2011

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:** 1 March 2005 / 3 years, 19 weeks
- b. **Age at Enlistment / Education / GT Score:** 19 / High School Diploma / NIF
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10 Infantryman / 2 years, 11 months.
- d. **Prior Service / Characterizations:** NA
- e. **Overseas Service / Combat Service:** Djibouti / None? (5 March 2007 – 4 April 2008)
- f. **Awards and Decorations:** NDSM, OSR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) On 14 February 2005, the applicant enlisted in the United States Army Reserve's Delayed Entry Program; on 1 March 2005, they enlisted in the Regular Army for 3 years and 19 weeks as a PV2.

(2) On 22 April 2008, the applicant was issued orders releasing them from active duty and assigning them to the USAR on 11 July 2008.

(3) A DD Form 214 (Certificate of Release of Discharge from Active Duty) provides

- Authority: AR 635-200, Chapter 4
- Narrative Reason: Completion of Required Active Service
- SPD Code: MBK
- Reentry Code: RE-1
- Service Characterization: Honorable
- Total Net Active Service this Period: 3 years, 4 months, 26 days
- Remarks: Subject to Active Duty Recall, Muster duty and/or annual screening/Block 6, period of Delayed Entry Program: 14 – 28 February 2005 / Service in Djibouti 5 March 2007 – 4 April 2008 / Member has completed first full term of service.
- Lost Time: None
- Signature: Inked signature

(4) On 20 February 2009, they signed their Army Reserve Deployment Stabilization Statement which provides the applicant will not be involuntarily deployed for 24 months. The

applicant was reassigned in the Reserves from “USAR Control Group (REINF)” and voluntarily assigned to “Grand Prairie Army Complex, TX”. On 13 June 2009, the applicant promoted to PFC.

(5) On 25 May 2011, the applicant was issued separation orders with an effective date of 3 June 2011 from the USAR with an Under Other than Honorable Conditions characterization of service and reducing them from PFC to the lowest enlisted grade. The orders are void of a narrative reason and/or whether this discharge was voluntary and/or involuntary.

i. Lost Time / Mode of Return: NIF

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE:

a. Through counsel, the applicant submitted DD Form 293 (Application for the Review of Discharge); DD Form 214 (Certificate of Release or Discharge from Active Duty); Legal Brief; USAR Separation Orders

b. An undated character letter from an unidentified person, who named themselves as the applicant’s best friend, states the applicant was an extraordinary Soldier, however, they are an even better human being and friend. They met the applicant when they were 19 years old, assigned to their first duty station together, 2nd Platoon, Delta Company, 1/3 US Infantry, where they were entrusted with the dignified transfer of remains for Arlington National Cemetery in the summer of 2005 until they were deployed. They were deployed for 12 months to the Horn of Africa, in support of Operation Enduring Freedom from 2007 to 2008; this mission was later increased to 15 months due to the troop “Surge”, maximizing their forces in multiple countries affected by the War on Terror.

(1) The applicant always conducted themselves honorably, with their openness, honesty, and curiosity, won the entire platoon within days of meeting them. Their time management was perfect, which is something the friend struggled with early in the military. When faced with impossible tasks or random chaos during ceremonial missions, the applicant would dig deep and somehow overcame the adversity. Even during moments where the other privates would have cracked beneath the hazing, the applicant let it roll off of their back. From getting the highest possible PT score, to training for the EIB, the applicant was a favorite of their squad leader.

(2) The applicant’s depth of character is a fact without question. They have a great sense of humor which balances their competitiveness. The applicant is humble where most would be grandstanding; they are self-reflective and thoughtful instead of choosing to run their mouth, being the epitome of thinking before they speak. The applicant is genuine and keeps their word, remains the same, even if there is no benefit for them. When they were in college, the applicant insisted their apartment complex office show the US flag the proper respect, as the flag was flying tattered and torn, without proper lighting at night. They embody the best qualities of what it is to truly be an American, yet their children will be the first generation born with U.S. citizenship from birth. The friend states they have witnessed firsthand countless moments of selflessness and generosity when others would hesitated.

(3) The applicant's friend completely disagreed with the unit's separation decision and contends the apathy to follow-up a likely administrative error of the non-issuance of orders from CA to TX, becoming an Other than Honorable, is saddening, simply rubber stamping the papers without further looking into them, is ridiculous and lacks integrity. The applicant is too stellar of a Soldier, upstanding person, and citizen, to ever be absent without leave (AWOL), and separated administratively. They will swear this under oath, if necessary, as will likely every person who has ever served beside the applicant. The applicant is their best friend, family to their children, and a second child to the friend's parents and they cannot recommend their character, values, honor, or integrity more.

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 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.

(2) 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.

e. Army Regulation 635-200, Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

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. A review of the record provides administrative irregularity in the proper retention of records, specifically, the AMHRR is void of the specific facts and circumstances concerning the events which led to their discharge from the Army Reserve. Although, a copy of separation orders are present and show a characterization of Under Other than Honorable Conditions with reduction to the lowest enlisted grade, the orders show only the separation authority and are void of a narrative reason and whether the separation was voluntary and/or involuntary. Additionally, the publication date of the orders is 10 days prior to the effective date of discharge.

(1) The available evidence provides the applicant enlisted in the Regular Army as an PV2. They were awarded their MOS 11B10, Infantryman and served in Djibouti from March 2007 – April 2008. Based on the effective date of discharge, the applicant completed their 3 year, 19 week contractual obligation. In July 2008, the applicant was RELAD and assigned to the IRR. In February 2009, they signed their Deployment Stabilization Statement, acknowledging the applicant will not be involuntary deployed for 24 months. Days later, they were voluntarily reassigned to Grande Prairie Reserve Complex, TX; they promoted to PFC in June 2009.

(2) Due to the absence of required records in the AMHRR and the lack of information in the published separation orders, the narrative reason for discharge IAW AR 135-178, is unknown.

b. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impeded 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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused, or mitigated a discharge.

(2) Did the condition exist, or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant requests an upgrade to Honorable. The board considered this contention and determined that the characterization of service was improper based on the applicant's in-service mitigating factors length of service, and the circumstances surrounding the

discharge out weight the basis of separation - Unsatisfactory participation ((missing drills). Accordingly, the board voted to grant relief in the form of an upgrade to the characterization of service to General Under Honorable Conditions.

(2) Through counsel, the applicant contends the UOTHC characterization has significant adverse consequences; they are requesting an upgrade given their history of honorable service and the lack of correspondence, notifying them of Unsatisfactory Performance/Participation requirements, and/or separation documents, having only received the Reserve discharge orders. The board considered this contention and determined due to the applicant being in the reserves, would not get a DD Form 214 upon discharge. Reserve Soldiers receive separation orders containing characterization of service and appropriate regulatory paragraph upon discharge.

(3) Through counsel, the applicant's friend contends the apathy to follow-up a likely administrative error of the non-issuance of orders from CA to TX, becoming an Other than honorable, is saddening, simply rubber stamping the papers without further looking into them, is ridiculous and lacks integrity. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the information outlined in paragraph 9b (1).

c. The board determined that the characterization of service was inequitable based on the applicant's in-service mitigating factors length of service, and the circumstances surrounding the discharge, the board voted to grant relief in the form of an upgrade to the characterization of service to General, Under Honorable Conditions. The applicant may request a personal appearance hearing to address further issues before the board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization of service to General, Under Honorable Conditions based on the applicant's in-service mitigating factors length of service, and the circumstances surrounding the discharge. 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210011219

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes**
- b. Change Characterization to: General, Under Honorable Conditions**
- c. Change Authority to: No Change**

Authenticating Official:

3/19/2024



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