

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 30 March 2019
- b. **Date Received:** 28 July 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 bad conduct. The applicant did not properly annotate the enclosed application requesting a possible discharge upgrade. The Army Discharge Review Board considered the applicant for a possible upgrade as instructed in pertinent part by Department of Defense Instruction 1332.28, which stipulates a request for review from an applicant without an honorable discharge shall be treated as a request for a change to an honorable discharge unless the applicant requests a specific change to another character of discharge.

The applicant seeks relief contending, in effect, the applicant had a previously undiagnosed mental illness before joining the Army. The applicant self-medicated and made some mistakes. In 2019, despite not having any military benefits, the applicant was able to stay at the VA hospital for almost 2 months because of the applicant's mental state. The applicant was in a combat zone and deserves to receive an education which is the applicant's goal. The applicant is a longtime member of the St. Joseph Clubhouse in Midtown Houston, TX.

b. **Board Type and Decision:** In a records review conducted on 28 March 2025, and by a 5-0 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 (Generalized Anxiety Disorder and Schizophreniform Disorder). 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 **Board Discussion and Determination** section 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:** 23 July 2012

c. **Separation Facts:**

(1) **Pursuant to Special Court-Martial Empowered to Adjudge a Bad-Conduct Discharge:** As announced by Special Court-Martial Order Number 1, 27 January 2011, on 16 November 2009, the applicant was found guilty of the following:

- (a) Charge I, Article 86:

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- Specification 1: Absent without leave (AWOL) on or about 12 December 2008 until on or about 11 May 2009, Plea: Guilty. Finding: Guilty
- Specification 2: Failed to go at the time prescribed to the appointed place of duty on divers occasions between on or about 18 May 2009 and 21 August 2009, Plea: Guilty. Finding: Guilty
- Specification 3: Failed to go at the time prescribed to the appointed place of duty on or about 24 August 2009, Plea: Guilty. Finding: Guilty

(b) Charge II, Article 91:

- Specification 1: Disobeyed a lawful order from a senior NCO on or about 19 June 2009, Plea: Guilty. Finding: Guilty
- Specification 2: Disrespectful in language towards an NCO on or about 19 June 2009, Plea: Guilty. Finding: Guilty

(c) Charge III, Article 112a:

- Specification 1: Wrongfully used 3, 4-methylenedioxymethamphetamine between on or about 18 November 2008 and 20 November 2008, Plea: Guilty. Finding: Guilty
- Specifications 2-4: Wrongfully used marijuana between on or about 12 April and 12 May 2009, 23 May and 23 June 2009, and 11 July and 11 August 2009, Plea: Guilty. Finding: Guilty

(d) Charge IV, Article 134:

- Specification 1: Drunk and disorderly on or about 19 June 2009, Plea: Guilty. Finding: Guilty
- Specification 2: Wrongfully communicated a threat to an NCO , Plea: Guilty. Finding: Guilty

(2) Adjudged Sentence: Forfeiture of \$933 pay per month for 9 months, to be confined for 9 months, and to be separated from the service with a Bad Conduct discharge.

(3) Date / Sentence Approved: 27 January 2011 / Only so much of the sentence extending to forfeiture of \$933 per pay month for 9 months, confinement for 6 months, and a bad conduct discharge was approved and, except for that portion of the sentence pertaining to a bad conduct discharge, would be executed. The applicant was credited with 10 days confinement credit against the sentence to confinement.

(4) Appellate Reviews: The Record of Trial was forwarded to The Judge Advocate General of The Army for review by the Court of Military Review. The United States Army Court of Criminal Appeals affirmed the approved findings of guilty and the sentence.

(5) Date Sentence of BCD Ordered Executed: 14 June 2012

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 30 January 2007 / 3 years

b. Age at Enlistment / Education / GT Score: 22 / GED / 99

c. Highest Grade Achieved / MOS / Total Service: E-3 / 91D10, Power-Generation Equipment Repairer / 5 years, 24 days (Includes 808 days of excess leave (8 May 2010 - 23 July 2012))

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (19 August 2007 - 6 January 2008)

f. Awards and Decorations: AAM, NDSM, GWOTSM, ICM-CS, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) DA Form 268 (Report to Suspend Favorable Personnel Actions (FLAG)), 4 January 2010, shows the applicant was flagged for adverse action (AA), effective 17 May 2009.

(2) Two Personnel Action forms, shows the applicant's duty status changed as follows:

- From Present for Duty (PDY) to Confined by Military Authorities (CMA) effective 16 November 2009; and
- From PDY to CMA, effective 1 April 2010

(3) Special Court-Martial Order, 12 January 2011, as described in paragraph 3c above.

(4) Headquarters, Fort Hood, Fort Hood, TX, Special Court-Martial Order Number 60, 14 June 2012, shows the applicant was sentenced to forfeiture of \$933 pay per month for 9 months, confinement for 6 months, and a bad conduct discharge, adjudged on 16 November 2009, as promulgated in Special Court-Martial Order Number 1, Headquarters, Fort Hood, Fort Hood, TX, 27 January 2011, was finally affirmed. The applicant was credited with 10 days confinement credit against the sentence to confinement. That portion of the sentence extending to confinement has been served. Article 71(c) having been complied with; the bad conduct discharge was ordered executed.

(5) Orders 205-1309, 23 July 2012, shows the applicant was reassigned to the U.S. Army Transition Point and discharged on 23 July 2012 from the Regular Army.

(6) The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), shows the applicant had not completed the first full term of service. The applicant was discharged on 23 July 2012 under the authority of AR 635-200, chapter 3, with a narrative reason of Court-Martial, Other. The DD Form 214 was not authenticated with the applicant's electronic signature. The applicant had lost time for the period 12 December 2008 - 11 May 2009.

(7) The applicant's Enlisted Record Brief, 25 June 2015, shows the Assignment Eligibility Availability code reflects the applicant was temporarily ineligible for reassignments due to medical, convalescence, confinement due to trial by court martial, enrollment in Track III ASAP, or local bar to reenlistment. The applicant was reduced from E-3 to E-1 effective 22 September 2008.

i. Lost Time / Mode of Return: 5 months (AWOL, 12 December 2008 - 11 May 2009) / NIF

j. Behavioral Health Condition(s):

(1) **Applicant provided:** None

(2) **AMHRR Listed:** None

The ARBA's medical advisor reviewed DoD and VA medical records.

5. **APPLICANT-PROVIDED EVIDENCE:** Application for the Review of Discharge.

6. **POST SERVICE ACCOMPLISHMENTS:** None submitted with the 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), 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. A characterization of under honorable conditions may be issued only when the reason for separation specifically allows such characterization.

(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) Paragraph 3-11 states a Soldier will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed. Questions concerning the finality of appellate review should be referred to the servicing Staff Judge Advocate.

e. Army Regulation 635-5-1 (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:

(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.

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 will be considered for an upgrade to honorable. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR indicates the applicant was adjudged guilty by a court-martial and the sentence was approved by the convening authority. Court-martial convictions stand as adjudged or modified by appeal through the judicial process.

c. The Board is empowered to change the discharge only if clemency is determined to be appropriate. Clemency is an act of mercy, or instance of leniency, to moderate the severity of the punishment imposed.

a. The applicant's Certificate of Release or Discharge from Active Duty shows the applicant served 5 years and 24 days which includes service in Iraq and 808 days of excess leave. The applicant received a special court-martial for (see paragraph 3c above) and was confined for 4 months and 17 days. The applicant's Certificate of Release or Discharge from Active Duty shows the applicant was discharged on 23 July 2012 under the provisions of AR 635-200, Chapter 3, by reason of Court-Martial (Other), with a characterization of service of bad conduct.

d. The applicant contends, in effect, the applicant had a previously undiagnosed mental illness before joining the Army. The applicant self-medicated and made some mistakes. In 2019, despite not having any military benefits, the applicant was able to stay at the VA hospital for almost 2 months because of the applicant's mental state. The applicant was in a combat zone and deserves to receive an education which is the applicant's goal. The applicant is a longtime member of the St. Joseph Clubhouse in Midtown Houston, TX.

(a) The applicant's Certificate of Release or Discharge from Active Duty shows the applicant served in Iraq from 19 August 2007 through 6 January 2008).

(b) Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

e. 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: Generalized Anxiety Disorder (GAD), Schizophreniform Disorder. [Note-Anxiety Disorder NOS is subsumed under diagnosis of GAD. Diagnosis of Brief Psychotic Disorder is subsumed under diagnosis of Schizophreniform Disorder.]

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found diagnosis of GAD was made during military service. VA diagnosis of Schizophreniform Disorder is not service connected, likely due to fact BCD separations are not eligible for service connection from the VA.

(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 applicant has a BH condition, Anxiety Disorder NOS, which mitigates some of his misconduct. As there is an association between Anxiety Disorder, avoidant behavior, difficulty with authority figures and self-medication with illicit drugs and alcohol, there is a nexus between this diagnosis and their offenses of multiple Failures To Report (FTR), AWOL, disrespectfulness/disobedience of NCOs and wrongful use of alcohol, MDMA and marijuana. Of note, it is more likely than not, given the short time span between their discharge from the Army and the diagnosis of psychotic condition, that the applicant's use of alcohol and drugs was more likely than not an attempt to self-medicate underlying premonitory psychotic symptoms which initially manifested as anxiety. Regarding the remaining offense of wrongfully communicating a threat, this is not mitigated by their diagnosis of Anxiety Disorder NOS as this condition does not affect one's ability to distinguish right from wrong and act in accordance with the right. Of note, while florid psychosis can occasionally cause threatening or aggressive behavior, record review indicates that no florid psychotic symptoms were noted while the applicant was on active duty.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition, Generalized Anxiety Disorder (GAD), Schizophreniform Disorder, or experience did not fully outweigh the basis of separation, communicating threats to NCO, FTRs, AWOL, disrespectfulness and disobedience of NCOs and wrongful use of alcohol, MDMA and marijuana.

b. Prior Decisions Cited: None

c. Response to Contention: The applicant contends, in effect, the applicant had a previously undiagnosed mental illness before joining the Army. The applicant self-medicated and made some mistakes. In 2019, despite not having any military benefits, the applicant was able to stay at the VA hospital for almost 2 months because of the applicant's mental state. The applicant was in a combat zone and deserves to receive an education which is the applicant's goal. The applicant is a longtime member of the St. Joseph Clubhouse in Midtown Houston, TX. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance. The Board appreciates the applicant's commitment to community service and self-improvement. The Board also found the applicant's behavior health diagnosis did mitigate some of the misconduct in their discharge, and thus granted partial relief.

d. The Board determined: The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Combat, Quality) and concurred with the conclusion of the medical advising official that the applicant's Generalized Anxiety Disorder does mitigate some of his misconduct. As there is an association between GAD, avoidant behavior, difficulty with authority figures and self-medication with illicit drugs and alcohol, there is a nexus between this diagnosis and the applicant's offenses of multiple FTRs, AWOL, disrespectfulness/disobedience of NCOs and wrongful use of alcohol, MDMA and marijuana. Of note, it is more likely than not, given the short time span between their discharge from the Army and the diagnosis of their psychotic condition, that the applicant's use of alcohol and drugs was more likely than not an attempt to self-medicate underlying premorbid psychotic symptoms which initially manifested as anxiety. Regarding the remaining offense of wrongfully communicating a threat, this is not mitigated by any of their diagnosis of Anxiety DO NOS as this condition does not affect one's ability to distinguish right from wrong and act in accordance with the right. Of note, while florid psychosis can occasionally cause threatening or aggressive behavior, record review indicates that no florid psychotic symptoms were noted while the applicant was on active duty. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable. The applicant's conduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge, so the Board voted to upgrade the characterization to General (Under Honorable Conditions).

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to General (Under Honorable Conditions), because the applicant's Generalized Anxiety Disorder does mitigate some of their misconduct. As there is an association between GAD, avoidant behavior, difficulty with authority figures and self-medication with illicit drugs and alcohol, there is a nexus between this diagnosis and the applicant's offenses of multiple FTRs, AWOL, disrespectfulness/disobedience of NCOs and wrongful use of alcohol, MDMA and marijuana. 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. The reason the applicant was discharged was both proper and equitable.

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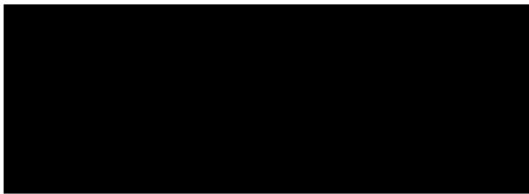
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: General (Under 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:

10/23/2025



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