

**1. Applicant's Name:**

- a. **Application Date:** 17 April 2021
- b. **Date Received:** 20 April 2021
- c. **Counsel:** None.

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

**a. Applicant's Requests and Issues:** The current characterization of service for period under review is under other than honorable conditions. The applicant requests an upgrade to under honorable conditions (general), and a narrative reason change.

The applicant states in effect, they are requesting a general discharge due to the changes in their life since they separated from the service. They got married, finished their degree, and cleaned up their life. They understand what they did was wrong regardless of the circumstances and an upgrade to a general discharge would put their heart and mind at rest.

They made some mistakes as a young soldier that were fixable and, in their attempt, to fix those mistakes with the help of their commander, they were unsuccessful as their unit went through four commanders in one year. They understand that their actions that got them into trouble were their fault, they do not blame anyone else but themselves. They did everything that was asked of them to fix their issues at hand. They went to counseling, wrote letters and their commander even wrote a letter to the board on their behalf.

Since separation they have completed their degree in criminal justice and legal studies, got married and bought a house. They have learned a lot from their mistakes and have done everything they can to make things right. They would be humbled to have their discharge upgraded.

**b. Board Type and Decision:** In a records review conducted on 25 September 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

**3. DISCHARGE DETAILS:**

- a. **Reason / Authority / Codes / Characterization:** NIF / AR 135-178 / NIF / UOTHC
- b. **Date of Discharge:** 10 December 2019
- 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:** NIF

**(6) Separation Decision Date / Characterization:** NIF / Under, other than honorable conditions.

**4. SERVICE DETAILS:**

- a. Date / Period of Enlistment:** 5 November 2018 / 8 years
- b. Age at Enlistment / Education / GT Score:** 19 / 1 Year College / 109
- c. Highest Grade Achieved / MOS / Total Service:** E-3 / 12B10 Combat Engineer / NIF
- d. Prior Service / Characterizations:** None.
- e. Overseas Service / Combat Service:** None.
- f. Awards and Decorations:** NDSM, ASR
- g. Performance Ratings:** None.
- h. Disciplinary Action(s) / Evidentiary Record:**

**(1)** An Enlistment/ Reenlistment Document provides the applicant enlisted in the United States Army Reserve for 8 years at the rank of E-2.

**(2)** A Certificate of Release or Discharge from Active-Duty document (DD Form 214) provides on 17 April 2015 the applicant was released from active duty training. They completed their required active service.

**(3)** Orders 19-344-00032, provides the applicant received a rank deduction to E-1 and they were discharged from the United States Army Reserve with an under other than honorable conditions discharge on 10 December 2019.

- i. Lost Time / Mode of Return:** NIF
- j. Behavioral Health Condition(s):** None.

**(1) Applicant provided:**

**(2) AMHRR Listed:**

**5. APPLICANT-PROVIDED EVIDENCE:** A DD Form 293 (Record Review) application and a personal statement in support of their application.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant completed their degree in criminal justice and legal studies, got married and bought a house.

**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 general, and a narrative reason change. The applicant's USAR Separation Orders provides the applicant received an under other than honorable conditions discharge.

b. A Review of the record provides administrative irregularity occurred in the proper retention of official records, specifically, the AMHRR is void of the applicant's entire separation. Due to the lack of evidence, we are unable to provide all the specific facts and circumstances surrounding the applicant's discharge from the Army Reserve. Notwithstanding the lack of evidence in the AMHRR, separation orders show they were discharged under the provisions of Army Regulation 135-178, with an under other than honorable conditions characterization of service on 10 December 2019.

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

d. 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 excuse or mitigate the discharge? **N/A**

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

b. Prior Decisions Cited: None.

c. Response to Contention(s): None

d. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the 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. The Board Members also recommended the applicant request a Personal Appearance Hearing to present more information and background.

e. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service. The Board noted the applicant failed to furnish any evidence for the Board to consider an upgrade. Based on the lack of evidence or information in the file, the Board could not properly determine the basis for separation. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention that the discharge was improper or inequitable.

(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.

# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

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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: No
- b. Change Characterization to: No change
- c. Change Reason / SPD code to: No change
- d. Change RE Code to: No change
- e. Change Authority to: No change

## Authenticating Official:

10/1/2024

X

Presiding Officer, COL, U.S. ARMY

Army Discharge Review Board

### 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