

1. Applicant's Name: [REDACTED]**a. Application Date:** 2 August 2021**b. Date Received:** 30 August 2021**c. Counsel:** NA**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is an Under Other Than Honorable Conditions. The applicant requests an upgrade of their character of service to Honorable and reinstatement of their rank/grade to private first class/E-3.

(2) The applicant seeks relief contending they were being given a General (Under Honorable Conditions) discharge in order to work on their benefits at home due to their unit mistreating them during their recovery as they sustained an injury while deployed to Afghanistan. Their command and the Chief Medical Officer at Fort Lewis agreed on an Honorable discharge. They were retaliated against for filing an Inspector General (IG) complaint against their command and forced to sign a Non-Bad Conduct chapter 10 while they were in the hospital and force to leave post 72 hours so they couldn't fight and they were reduced in rank/grade to private/E-1.

b. Board Type and Decision: In a records review conducted on 6 August 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (Opioid and Amphetamine Dependence, PTSD diagnoses). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General (under honorable conditions). No change to the narrative reason for separation or the reentry code.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: In Lieu of Trial by Court-Martial / Army Regulation 635-200, Chapter 10 / KFS / RE-4 / Under Other Than Honorable Conditions

b. Date of Discharge: 20 December 2012**c. Separation Facts:**

(1) **Date and Charges Preferred (DD Form 458 (Charge Sheet)):** 31 October 2012 / Charge I, violation of Article 86 (Absence Without Leave (AWOL)), in that, at or near Joint Base Lewis-McChord, WA, on or about 5 March 2013, without authority, absent themselves from their unit, and did remain so absent until on or about 11 July 2012; Charge II, violation of Article 92 (Failure to Obey Order, Regulation), in that, on or about 28 May 2012, violated a lawful general order, by wrongfully ingesting Bath Salts while on Staff Duty, and Charge III, violation of Article 112a (Wrongful Use of Controlled Substance), in that, on or about 13 July 2012, wrongfully used marijuana, a Schedule I controlled substance.

(2) **Legal Consultation Date:** 30 November 2012

(3) Basis for Separation: Pursuant to the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

(4) Recommended Characterization: Under Other Than Honorable Conditions

(5) Separation Decision Date / Characterization: 3 July 2013 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 24 January 2011 / 3 years, 16 weeks

b. Age at Extension of Reenlistment / Education / GT Score: 22 / HS Diploma / 96

c. Highest Grade Achieved / MOS / Total Service: E-3 / 11C1O, Indirect Fire Infantryman / 1 year, 9 months, 20 days.

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (4 December 2011 – 2 February 2012)

f. Awards and Decorations: ACM-CS, GWTS, ASR/ The applicant's AMHRR reflects award of the NDSM, however, the award is not reflected on the DD Form 214.

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A memorandum, U.S. Army Criminal Investigation Command (CID), Fort Lewis CID Office, subject: CID Report of Investigation – Initial Final, dated 4 June 2012, reflects the applicant as the named subject with the offense of Failure to Obey General Order (Army Regulation 600-85 (Army Substance Abuse Program (ASAP))). The Investigative Summary states the applicant was found in possession of bath salt while on staff duty. Investigation established probable cause existed to believe the applicant committed the offense of Failure to Obey General Order (Army Regulation 600-85), when they ingested bath salts. Further, the applicant was found in possession of two containers of bath salts on their person.

(2) A DA Form 4187 (Personnel Action) dated 6 June 2012 reflects the applicant's unit changed their duty status from Present for Duty to Absence Without Leave (AWOL), effective 6 June 2012.

(3) A DA Form 4187 (Personnel Action) dated 6 July 2012 reflects the applicant's unit changed their duty status from AWOL to Dropped From Rolls, effective 6 July 2012.

(4) A DD Form 616 (Report of Return of Absentee) dated 11 July 2012 reflects the applicant surrendered to military authorities at Fort Drum, NY on 11 July 2012 and transferred to Joint Base Lewis-McChord, WA.

(5) A DA Form 4187 (Personnel Action) dated 16 July 2012 reflects the applicant's unit changed their duty status from Dropped From Rolls to Present for Duty, effective 13 July 2012.

(6) A memorandum, ASAP, subject: Requirements RE Lab-Confirmed Positive Urinalysis, dated 26 July 2012, reflects the purpose of the memorandum is to provide guidance from Army Regulation 600-85 about required actions as a result of a positive urinalysis reported by the supporting Forensics Toxicology Drug Testing Lab. Attached documents reflects the applicant tested positive for Tetrahydrocannabinol (THC) with a date of sample of 13 July 2012.

(7) A DD Form 458 (Charge Sheet) dated 31 October 2012 reflects charges were preferred against the applicant for – Charge I, violation of Article 86 (Absence Without Leave (AWOL)), in that, at or near Joint Base Lewis-McChord, WA, on or about 5 March 2013, without authority, absent themselves from their unit, and did remain so absent until on or about 11 July 2012; Charge II, violation of Article 92 (Failure to Obey Order, Regulation), in that, on or about 28 May 2012, violated a lawful general order, by wrongfully ingesting Bath Salts while on Staff Duty, and Charge III, violation of Article 112a (Wrongful Use of Controlled Substance), in that, on or about 13 July 2012, wrongfully used marijuana, a Schedule I controlled substance.

(8) In the applicant's memorandum, subject: Request for Discharge in Lieu of Trial by Courts-Martial – (Applicant), dated 30 November 2012, reflects the applicant voluntarily requested Discharge In Lieu of Trial by Courts-Martial under Army Regulation 635-200, chapter 10. They understood they may request Discharge In Lieu of Trial by Courts-Martial because of charges that have been preferred against them under the Uniform Code of Military Justice (UCMJ) of which at least one authorizes the imposition of a punitive discharge. They are making this request of their own free will and have not been subjected to any coercion whatsoever by any person.

(a) Prior to completing this form, they have been afforded the opportunity to consult with appointed counsel. They have been advised of the nature of their rights under the UCMJ, the elements of the offenses with which they are charged, the facts which must be established by competent evidence beyond a reasonable doubt to sustain a finding of guilty; the possible defenses which appear to be available at the time, and the maximum permissible punishment if found guilty.

(b) They understand that, if their request for discharge is accepted, they may be discharged under conditions which are other than honorable. They have been advised and understand the possible effects of an Under Other Than Honorable Conditions Discharge and that, as a result of the issuance of such a discharge they will be deprived of many or all Army benefits, that they may be ineligible for many or all benefits administered by the Department of Veterans Affairs (VA), and that they may be deprived of their rights and benefits as a veteran under both Federal and State law. They further understand they may expect to encounter substantial prejudice in civilian life because of an Under Other Than Honorable Conditions discharge.

(c) They understand they may be reduced to the lowest enlisted grade upon approval of this request. They elected to submit statements on their own behalf and respectfully request consideration of giving them a General (Under Honorable Conditions) discharge.

(1) In the applicant's letter to the commanding general they state they deployed to Afghanistan and sustained a serious injury to their right hand, permanently disabling their dominant hand. They also suffer from signs and symptoms of Post Traumatic Stress Disorder (PTSD) due to this event. They request a General (Under Honorable Conditions) discharge because of their need to seek further medical attention. Their command ensured them that they would be receiving a paragraph 14-12c [misconduct (serious offense) which would secure access to Department of Veterans Affairs (VA) benefits. Their command not only promised them, but they promised their parents and doctors. They have included letter from their parents

and doctors. They made an IG complaint in October 2012 and then charges were preferred against them. They can't help but feel that the IG complaint promoted their command to retaliate and pursue a court-martial instead of the promised chapter 14. They have successfully completed 47 days of inpatient therapy and continue to go to their outpatient programs. They are also taking their medications to cope with their PTSD.

(2) In a staff psychiatrist letter, attached to the ASAP, the psychiatrist stated they have treated the applicant numerous times since 19 September 2012. The applicant suffers from PTSD and opioid dependence. The applicant's PTSD treatment required treatment at inpatient psychiatric treatment at Aurora Behavioral Health from 3 August 2012 to 19 September 2012 and at the Madigan Army Medical Center from 20 September 2012 to 1 October 2012. Both psychiatric facilities diagnosed them with PTSD and recommend continuing treatment. They were also treated for a long period with pain medications following a severe injury to their right hand sustained in Afghanistan. The dependence on pain medication is now treated with controlled doses of a opioid substitute. It is their opinion the applicant will require further treatment. It is their understanding the applicant would be processed for an administrative separation with an honorable discharge so they would be eligible for treatment of their PTSD from the VA.

(3) In a licensed clinical psychologist, Aurora Behavioral Health Care, they state the applicant was referred to the ASAP for treatment of PTSD and substance abuse issues. The applicant received treatment from 3 August 2012 to 19 September 2012. The applicant was deployed to Afghanistan and was involved in an accident which resulted in their finger being ripped off. The applicant reported they began to notice symptoms of PTSD after they returned from their deployment including panic attacks, hypervigilance, and difficulty with sleep and nightmares. They were prescribed Percocet for pain after their surgery and when this medication was discontinued they began to obtain this same medication on their own and abused it. It is believed that their substance abuse was directly connected to their emotional and physical injuries sustained while on deployment.

(4) In emails from the applicant's parents, they attest to the applicant's company commander's assurances that the applicant would be discharged with a chapter 14 and would be released within a period of 90 to 120 days after they complete a 28 day inpatient program. The applicant's parents respectfully requested they be released with a chapter 14 that will insure the applicant of their benefits, primarily their VA benefits.

(9) A Department of the Army IG Action Request System (IGARS) Electronic Case Form opened on 15 October 2012 and closed 3 December 2012 reflects the applicant's parent as the Initiator and Complainant and the stated allegations as failure to treat subordinates with dignity and respect, conduct prejudicial to good order and discipline, harassment / maltreatment, issues with duty roster, and inventory and storage of personal property. The case Conclusions, reflects the case closed after providing the 7th Infantry Division IG Office with the supporting documentation, referring the case in IGARS and verifying the complainant (Applicant's parent) required no further assistance.

(10) A memorandum, Headquarters, 7th Infantry Division, subject: Request for Discharge in Lieu of Trial by Courts-Martial – (Applicant), dated 6 December 2012, reflects the separation authority approved the applicant's request for discharge in lieu of trial by court-martial under the provisions of Army Regulation 635-200, chapter 10. They directed the applicant will be discharged and their service will be characterized as Under Other Than Honorable Conditions and they will be reduced to private/E-1 immediately.

(11) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 20 December 2012, with 1 years, 9 months, and 20 days of net active service this period.. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 6 December 2012
- item 18 (Remarks) – in part, MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 26 (Separation Code) – KFS
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – In Lieu of Trial by Court-Martial
- item 29 (Dates of Time Lost During This Period) – 20120606 - 20120712

(12) A Department of the Army IGARS Electronic Case Form opened 17 October 2012 and closed 31 January 2012 reflects the applicant's parent as the Initiator and Complainant and the Problem Area as harassment/maltreatment. The Function and Stated Allegations reflect –

(a) Failure to Treat Individuals with Dignity and Respect - Point of Contact (POC) stated since [applicant] has been back on active duty status they felt they have been treated unfairly.

(b) Unit Inventory/Storage/Shipment of Personal Property – POC stated the applicant's first sergeant allowed other Servicemember (SM) to take personal items out of [applicant's] room. SM stated the applicant owed other SMs some money. The SMs went to the first sergeant to complain and stated the first sergeant told them they could take stuff out of the applicant's room, since the applicant owes them money.

(c) Hazing/Bullying – POC stated on or around June 2012, the applicant went AWOL from their unit because they felt that the chain of command was treating them badly and they wanted to leave the Army.

(d) Details/Duty Roster – POC stated that the applicant has been erroneously placed on the duty roster.

(e) A Synopsis reflects each of the stated allegations were addressed and the case was closed after providing the 7th IG Office with the supporting documentation, referring the case in IGARS and verifying the complainant required no further assistance. The applicant was contacted and informed them of all the allegations spoken with their chain of command. The applicant stated their chain of command has been a lot better since the IG visited them. The applicant stated they no longer have any more issues with their chain of command and their only concern is with their chapter process. They stated that they have no longer needs any further assistance from the IG Office.

i. Lost Time / Mode of Return: AWOL, 37 days (6 June 2012 – 12 July 2012) / Surrendered to Military Authorities

j. Behavioral Health Condition(s):

(1) Applicant provided: a Staff Psychiatrist, Department of Behavioral Health, Madigan Army Medical Center, ASAP Medical Director, stating the applicant's diagnosis as PTSD.

(2) AMHRR Listed: a Staff Psychiatrist, Department of Behavioral Health, Madigan Army Medical Center, ASAP Medical Director, stating the applicant's diagnosis as PTSD; and a Licensed Clinical Psychologist, Aurora Behavioral Health Care, reflecting the applicant's treatment of PTSD and substance abuse issues.

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Staff Psychiatrist, Department of Behavioral Health, Madigan Army Medical Center, ASAP Medical Director Letter

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the application.

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (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 (DoD) 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 40-501 (Standards of Mental Fitness) effective 4 August 2011, governed medical fitness standards for retention and separation, including retirement. Table 8-2 (Schedule of Separation Medical Examination or Separation Physical Assessment) stated for enlisted Soldiers being processed for separation under provision of Army Regulation, chapter 10 (if a medical examination is requested by the Soldier, then mental status evaluation is required) in not required, can be requested by Soldier in writing.

e. Army Regulation 20-1 (Inspector General Activities and Procedures) prescribes policy and procedures concerning the mission and duties of the IG. IG records are protected documents that contain sensitive and confidential information and advice. Army IG records are any written or recorded IG work product created during the course of an IG assistance inquiry, inspection, investigative inquiry, or investigation. An IG record includes, but is not limited to, correspondence or documents received from a witness or a person requesting assistance, IG reports, IG Network (IGNET) data, or other computer automatic data processing files or data, to include IG notes and working papers.

(1) An IG investigative inquiry is defined as an informal fact-finding examination into allegations, issues, or adverse conditions that are not significant in nature – as deemed by the command IG or directing authority – and when the potential for serious consequences (such as potential harm to a Soldier or negative impact on the Army's image) are not foreseen. The IG investigative inquiries involve the collection and examination of evidence that consists of testimony or written statements; documents; and, in some cases, physical evidence. Command IGs direct investigative inquiries and provide recommendations to the directing authority or subordinate commanders as appropriate. The directing authority reserves the right to direct an investigative inquiry if he or she feels an investigation is not appropriate. IGs resolve most allegations using this methodology and report their conclusions using a Report of Investigation.

(2) The IGARS is a subsystem of IGMET that provides an automated means of recording, storing, and analyzing data pertaining to IG casework.

f. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 6 September 2011, 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) A separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status, except when: (1) Characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case. (2) The Soldier has less than 181 days of continuous active military service, has completed Initial Entry Training (IET), has been awarded a Military Occupational Specialty (MOS), and has reported for duty at a follow-on unit of assignment.

(5) Paragraph 1-13 (Reduction in Grade) stated when a Soldier is to be discharged Under Other Than Honorable Conditions, the separation authority will direct an immediate reduction to the lowest enlisted grade.

(6) Chapter 10 (Discharge in Lieu of Trial by Court-Martial) stated a Soldier who has committed an offense or offenses, the punishment for which under the UCMJ and the Manual of Courts-Martial, 2008, includes a bad conduct or dishonorable discharge, may submit a request for discharge in lieu of trial by court-martial. The Soldier's written request will include an acknowledgment that he/she understands the elements of the offense(s) charged and is guilty of the charge(s) or of a lesser included offense(s) therein contained which also authorizes the imposition of a punitive discharge.

(7) Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under Army Regulation 40-501, chapter 8.

(8) Paragraph 10-8 (Types of Discharge, Characterization of Service) stated a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged 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.

(9) Chapter 15 (Secretarial Plenary Authority), currently in effect, 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.

g. 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.

h. 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 Department of Defense Instructions 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.

i. Army Regulation 600-8-19 (Enlisted Promotions and Reductions) effective 2 March 2015 prescribed the enlisted promotions and reductions functions of the military personnel system. Paragraph 10-1 (Administrative Reductions) stated when the separation authority determines a Soldier is to be discharged from the Service under other than honorable conditions, the Soldier will be reduced to the lowest enlisted grade.

j. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. The ultimate decision regarding separation or retention of abusers is the responsibility of the Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's mission. Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement.

k. Manual for Courts-Martial, United States (2012 Edition) stated, 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 law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following Article 86 (Absence Without Leave), Article 92 (Failure to Obey Order, Regulation), and Article 112a (Wrongful Use Controlled Substances).

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

b. The evidence in the applicant's AMHRR confirms the applicant was charged with the commission of offenses punishable under the UCMJ with a punitive charge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of Army Regulation 635-200, chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted to the offense, or a lesser included offense, and indicated an understanding a under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. They completed 1 year, 9 months, and 20 days of net active service this period and did not completed their first full term of service of their 3-year, 16-week enlistment agreement.

c. Army Regulation 635-200 states a 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 discharged 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: Opioid and Amphetamine Dependence, PTSD

(2) Did the condition exist, or experience occur during military service? **Yes.** Opioid and Amphetamine Dependence, 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, and substance use, the basis is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's condition outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends they were being given a General (Under Honorable Conditions) discharge in order to work on their benefits at home due to their unit mistreating them during their recovery as they sustained an injury while deployed to Afghanistan. Their command and the Chief Medical Officer at Fort Lewis agreed on an Honorable discharge.

(2) The applicant contends they were retaliated against for filing an IG complaint against their command and forced to sign a Non-Bad Conduct chapter 10 while they were in the hospital and force to leave post 72 hours so they couldn't fight and they were reduced in rank/grade to private/E-1.

d. The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (Opioid and Amphetamine Dependence, PTSD diagnoses). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General (under honorable conditions). No change to the narrative reason for separation or the reentry code.

e. Rationale for Decision:

(1) 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 given the trauma occurred prior to the misconduct and nexus between trauma, avoidance, and substance use, the basis is mitigated. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable and is warranted an upgrade

(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 / 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

Change Authority to: No change

Authenticating Official:

3/4/2026

