

1. Applicant's Name: [REDACTED]**a. Application Date:** 21 June 2021**b. Date Received:** 28 June 2021**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant Requests: The current characterization of service for the period under review is Bad Conduct. The applicant failed to properly annotate the enclosed application when requesting a possible discharge upgrade. Following Department of Defense Instruction 1332.28, the Army Discharge Review Board reviewed the applicant's case for a potential upgrade. This directive states a request from an applicant without an honorable discharge must be treated as a request for an upgrade to an honorable discharge unless the applicant specifies a different character of discharge.

b. Applicant Contention(s)/Issue(s): The applicant requests relief contending, in effect, the applicant went AWOL for a little over a month for a major family emergency and the applicant's unit was not willing or able to find a way to assist the applicant in taking the time needed to help the applicant's family. When the applicant's captain finally called, the applicant returned immediately. The applicant is very sorry for this situation and never intended on doing anything less than the standards required by the U.S. Army.

c. Board Type and Decision: In a records review conducted on 29 January 2026, and by a 3-0 vote, the Board determined that clemency is warranted based on the applicant's length of service and the inequity of the Bad Conduct Discharge in relation to the offenses. Accordingly, the Board voted to grant relief by upgrading the applicant's characterization of service to General (Under Honorable Conditions), changing the separation authority to AR 635-200, paragraph 14-12a, and revising the narrative reason for separation to Misconduct (absent without leave), with a corresponding separation code of JKD. The Board also determined that the RE Code was proper and equitable and voted to leave it unchanged. Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Court-Martial, Desertion / AR 635-200, Chapter 3 / JJC / RE-4 / Bad Conduct

b. Date of Discharge: 19 January 2007

c. Separation Facts:

(1) Pursuant to Special Court-Martial Empowered to Adjudge a Bad-Conduct Discharge): As announced by Special Court-Martial Order Number 26, 14 July 2004, the applicant was found guilty of the following:

(a) Charge I, violation of Article 86 (Desertion), specification – on or about 13 September 2003, with intent to avoid hazardous duty, namely deployment with the applicant's unit to Iraq, quit the unit, to wit: Howitzer Battery, 2nd Squadron, 3rd Armored Cavalry Regiment, located at Fort Carson, Colorado, and did remain so absent in desertion until on or about 5 November 2003. Guilty,

except the words and figures, "until on or about 5 November 2003," and substituting therefore the words and figures, "until on or about 20 September 2003 and did, on or about 21 September 2003, with intent to avoid hazardous duty, namely deployment with his unit, to wit: Howitzer Battery, 2nd Squadron, 3rd Armored Cavalry Regiment, located at Fort Carson, Colorado, and did remain so absent in desertion until on or about 5 November 2003." To the excepted words and figures Not Guilty. To the substituted words and figures: Guilty.

(b) Charge II, in violation of Article 87 (Missing Movement), specification – on or about 10 November 2003, through design missed movement, with which the applicant was required in the course of duty to move.

(c) Charge III, in violation of Article 115 (Malingering), specification – on or about 9 November 2003, for the purpose of avoiding deployment, intentionally injured himself by superficially cutting the applicant's wrists and arms with a sharp object.

(2) Adjudged Sentence: Reduction to the grade of E-1, forfeiture of \$795 pay per month for five months, confinement for five months, and a Bad Conduct Discharge.

(3) Date / Sentence Approved: 14 July 2004 / Except for the portion of the sentence extending to the Bad-Conduct Discharge, would be executed.

(4) Appellate Reviews: 27 January 2006 / Special Court-Martial Order Number 26, dated 14 July 2004 was corrected as follows: By adding in line ten of the Specification of Charge I after the words "Finding: Guilty" the words "(Military judge amended specification after arraignment to conform with plea)."

(5) Date Sentence of BCD Ordered Executed: 14 July 2006

4. SERVICE DETAILS:

a. Date / Period of Enlistment Under Review: 13 August 2002 / 3 years

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 91

c. Highest Grade Achieved / MOS / Total Service: E-3 / 13B1O, Cannon Crewmember / 3 years, 11 months, 13 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: See paragraph 3c(1).

i. Lost Time / Mode of Return: 5 months, 25 days

AWOL, (13 September 2003 – 19 September 2003) / NIF

AWOL, (21 September 2003 – 4 November 2003) / NIF

CMA, (11 May 2004 – 13 September 2004) / Released from Confinement

j. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See **"Board Discussion and Determination"** for Medical Advisor Details.

(1) **Applicant provided:** None

(2) **AMHRR provided:** None

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293

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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice,

or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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.

f. Army Regulation 601-210, Regular Army, and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

- RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.
- RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.
- RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

g. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation. It states:

(a) 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.

(b) 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.

(c) 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.

(d) A Bad Conduct discharge will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a Bad Conduct Discharge. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD.

(e) A dishonorable discharge will be given pursuant only to an approved sentence of a general 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 SJA

(2) 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. If Secretarial Authority is granted normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

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

8. SUMMARY OF FACT(S): Standard of Review. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. 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's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's Army Military Human Resource Record (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.

d. The applicant contends the applicant went AWOL for a little over a month for a major family emergency and the applicant's unit was not willing or able to find a way to assist the applicant in taking the time needed to help the applicant's family. When the applicant's captain finally called, the applicant returned immediately. The applicant provided no supporting evidence to support this contention.

e. The applicant is very sorry for this situation and never intended on doing anything less than the standards required by the U.S. Army.

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, a voting member, 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. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends the applicant went AWOL for a little over a month for a major family emergency and the applicant's unit was not willing or able to find a way to assist the applicant in taking the time needed to help the applicant's family. When the applicant's captain finally called, the applicant returned immediately. The Board considered this contention and noted that no supporting evidence was provided; however, the Board still weighed the applicant's circumstances as part of its clemency review and ultimately granted partial relief based on length of service and the harshness of the original punishment.

(2) The applicant is very sorry for this situation and never intended on doing anything less than the standards required by the U.S. Army. The Board considered this contention and acknowledged the applicant's remorse, which the Board included in its overall clemency assessment that resulted in an upgrade to a General (Under Honorable Conditions) discharge.

d. The Board determined that clemency was warranted based on the applicant's length of service and the inequity of the Bad Conduct Discharge in relation to the basis for separation. Therefore, the Board voted to grant relief by upgrading the characterization of service to General (Under Honorable Conditions) and directed the issuance of a new DD Form 214 reflecting a narrative reason of Misconduct (Absent Without Leave) and a separation code of JKD. The Board determined that the RE Code was proper and equitable and voted not to change it. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. 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

e. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

(2) The Board voted to change the applicant's characterization of service to General (Under Honorable Conditions) because clemency was warranted based on the applicant's length of service and the harshness of the Bad Conduct Discharge.

(3) The Board voted to change the applicant's reason for discharge Misconduct (Absent Without Leave) with accompanying SPD code of JKD, under the same pretexts.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

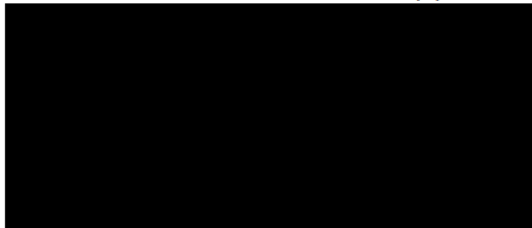
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10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: General, Under Honorable Conditions
- c. Change Reason / SPD code to: Misconduct (absent without leave) / JKD
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200, paragraph 14-12a

Authenticating Official:

2/9/2026



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
FTR – Failure to Report

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