

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 13 August 2021
- b. **Date Received:** 23 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.

(2) The applicant seeks relief contending their change is requested to receive benefits from the Department of Veterans Affairs (VA). They had good conduct prior to their incident of being absent without leave (AWOL) as shown by their Noncommissioned Officer (NCO) evaluation and the awards they received. During their third deployment they went on emergency leave after losing contact with their spouse for 30 days. Their spouse went to a different state with their child and they found out their spouse was pregnant by another person. They separated from their spouse and they had custody of their child. They were ordered to out process out of the Army for hardship, so they could take care of their child. However, during the out processing they tested positive on a random unit drug test and their hardship discharge was rescinded.

(3) They admit to using Percocet and Morphine to deal with the downward spiral of their life, dealing with the infidelity of their spouse, memories of three combat tours and the stress of needing to care for their child. When their hardship separation was rescinded, they needed to escape from everything and try to get some normalcy. They left Fort Bragg and was considered AWOL which led to their discharge with an Under Other Than Honorable character of service.

(4) They were granted VA disability of Post Traumatic Stress Disorder (PTSD) effective 29 November 2018. They are requesting a sympathetic review of the facts and approval of a character of service upgrade. They have other disabilities the VA have denied due to their Under Other Than Honorable Conditions character of service from 24 March 2009 to 16 April 2013.

b. Board Type and Decision: In a records review conducted on 19 September 2025, and by a 3-2 vote, the Board granted clemency in the form of an upgrade to Honorable discharge. The Board determined the narrative reason, SPD code and RE code were proper and equitable and voted not to change them.

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

(Board member names available upon request)

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: 16 April 2013

(1) Separation Facts: A review applicant's the Army Military Human Resource Record (AMHRR) case separation file only contains the Separation Authority Memorandum with a Separation Decision Date of 4 April 2013 with a Characterization of Service as Under Other Than Honorable Conditions.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 14 April 2015 / 5-years

b. Age at Enlistment / Education / GT Score: 22 / HS Graduate / NIF

c. Highest Grade Achieved / MOS / Total Service: E-5 / 91B1P, Wheeled Vehicle Mechanic / 5 years, 8 months, 27 days

d. Prior Service / Characterizations: NA

e. Overseas Service / Combat Service: SWA / Iraq (4 December 2008 – 2 December 2009) and Afghanistan (15 January 2010 – 6 August 2010 and 12 March 2011 – 1 November 2011)

f. Awards and Decorations: ACM-3CS, ICM-2CS, ARCOM-2, AAM-2, AGCM, NDSM, GWTSM, ASR, NATOMDL

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A Headquarters, U.S. Army Garrison, Fort Bragg Orders 305-0256, dated 31 October 2012, reflects the applicant was reassigned to the U.S. Army transition point for transition processing with a date of discharge of 15 November 2012.

(2) A Headquarters, U.S. Army Garrison, Fort Bragg Orders 313-0286, dated 6 November 2012, reflects the applicant's Orders 305-0256, dated 31 October 2012 was revoked.

(3) Three DA Forms 4187 (Personnel Action) dated 15 November 2012 through 2 February 2013, reflects the applicant's duty status was changed from Present for Duty to AWOL, effective 15 November 2012; from AWOL to Dropped From the Rolls, effective 15 December 2012; and from Dropped From the Rolls to Return to Military Control, effective 2 February 2013.

(4) A DD Form 616 (Report of Return of Absentee) dated 2 February 2013, reflects the applicant was apprehended by civilian authorities and transferred to military authorities.

(5) A memorandum, Headquarters, U.S. Army Special Forces Command (Airborne), subject: Request for Discharge in Lieu of Trial by Court-Martial, dated 4 April 2013, reflects the separation authority's approval of the request submitted by the applicant for a discharge in lieu of trial by court-martial. The commanding general directed the applicant will receive an Under Other Than Honorable Conditions discharge, will be reduced to the lowest enlisted grade, and charges will be dismissed effective the date of separation.

(6) A Headquarter, U.S. Army Garrison, Fort Bragg Orders 099-0272, dated 9 April 2013, reflects the applicant was reassigned to the U.S. Army transition point for transition processing with a date of discharge of 16 April 2013.

(7) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 16 April 2013. 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) – 4 April 2013
- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 26 (Separation Code) – KFS [In Lieu of Trial by Court-Martial]
- 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) – 20121115 - 20130201

i. Lost Time / Mode of Return: 79 days, 15 November 2012 – 1 February 2013 / Apprehension by civilian authorities

j. Behavioral Health Condition(s): None

(1) Applicant provided: VA Rating Decision with service connection for PTSD granted with an evaluation of 70-percent, effective 29 November 2018.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States), with VA Form 21-4138 (Statement in Support of Claim)
- Excerpt of document from their AMHRR
- 3rd Party Character Statement
- VA Rating Decision

6. POST SERVICE ACCOMPLISHMENTS: None provided 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, Title 10, U.S. Code, Section 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 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) 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.

(5) Paragraph 3-9 (Uncharacterized Separations) stated an entry-level status separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status, except when characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case.

(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, 2012, 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 10-8 (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.

e. 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.

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 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.

g. Manual for Courts-Martial (2012 Edition), United States, states 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 orders 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 Article 86 (AWOL) and Article 112a (Wrongful Use of Controlled Substance).

h. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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. A review of the available evidence provides an administrative irregularity in the proper retention of records, specifically the AMHRR case files for approved separation is missing; however their AMHRR contains the Separation Authority Memorandum. This evidence reflects the applicant requested a discharge under the provisions of Army Regulation 635-200, chapter 10, in lieu of trial by court-martial. The under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance. They completed 5 years, 8 months, and 27 days of net active service this period and completed their first full term of service; however, they did not complete their 5-year reenlistment service obligation.

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. The applicant's AMHRR does not reflect documentation of a diagnosis of ; however, the applicant provided a Behavioral Health Discharge Summary reflecting a diagnosis of Adjustment Disorder with Depressed Mood.

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: Opioid Dependence with Physiological Dependence, Adjustment Disorder, PTSD, Personality Disorder, various Substance Disorders with subsumed mood disorders.

(2) Did the condition exist, or experience occur during military service? **Yes.** Opioid Dependence with Physiological Dependence, Adjustment Disorder, possible Personality Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that while current documentation does not suggest trauma contributed to his decisions, it cannot be completely ruled out in terms of contributing to his relapse and drive to be discharged even if that meant going AWOL because the pending separation was cancelled lengthening his time. Additionally, documentation does indicate depressive symptoms which can contribute to poor decision making especially as it pertains to self-medicating, withdrawing, and giving up due to hopelessness.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all evidence, the Board found the applicant's mental health conditions mitigated the AWOL offense and justified an upgrade to Honorable discharge.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends their change is requested to receive benefits from the VA. The Board 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.

(2) The applicant contends they had good conduct prior to their incident of being absence without leave (AWOL) as shown by their NCO evaluation and the awards they received.

The Board considered this contention and acknowledged the applicant's prior good conduct, including NCO evaluations and awards, as part of the overall equity analysis supporting the upgrade.

(3) The applicant contends they admit to using Percocet and Morphine to deal with the downward spiral of their life, dealing with the infidelity of their spouse, memories of three combat tours and the stress of needing to care for their child.

The Board considered this contention and recognized the applicant's use of Percocet and Morphine as self-medication linked to documented mental health conditions that mitigated the AWOL offense.

(4) The applicant contends they were granted VA disability of PTSD effective 29 November 2018.

The Board considered this contention and noted the applicant's VA-rated PTSD effective 29 November 2018.

(5) The applicant contends they are requesting a sympathetic review of the facts and approval of a character of service upgrade.

The Board considered this contention and determined that while the character of service was upgraded to Honorable, eligibility for VA benefits falls outside its authority and should be addressed through the Department of Veterans Affairs.

(6) The applicant contends they have other disabilities the VA have denied due to their Under Other Than Honorable Conditions character of service.

The Board considered this contention and reiterated that VA benefit eligibility decisions are not within its purview and must be pursued through the Department of Veterans Affairs.

d. The Board determined, after 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 considered documentation in the applicant's file that indicates depressive symptoms which can contribute to poor decision making especially as it pertains to self-medicating, withdrawing, and giving up due to hopelessness. The applicant's medical diagnosis mitigates the applicant's offense of AWOL. The Board also noted the applicant has in-service factors of length, quality and combat that further outweigh the applicant's AWOL offense. Based on a preponderance of evidence, the Board determined that the applicant's separation was inequitable and voted to grant an upgrade to Honorable discharge. The Board voted not to change the applicant's reason for discharge or accompanying SPD code, as the reason for discharge was both proper and equitable. 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

AR20210016665

e. Rationale for Decision:

(1) The Board voted to upgrade the applicant's characterization of service to Honorable based on liberal consideration of all evidence, including behavioral health diagnoses that mitigated the AWOL offense,

(2) The Board voted not to change the applicant's reason for discharge or SPD code, finding 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.

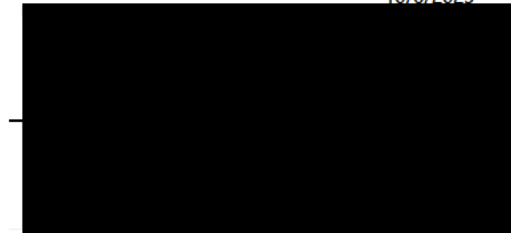
10. BOARD ACTION DIRECTED:

a. Issue a New DD-214 / Separation Order: Yes

- a. Change Characterization to: Honorable**
- b. Change Reason / SPD code to: No Change**
- c. Change RE Code to: No Change**
- d. Change Authority to: No Change**

Authenticating Official:

10/6/2025



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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