

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 16 July 2021
- b. **Date Received:** 26 July 2021
- c. **Counsel:** None

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

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is bad conduct. The applicant did not properly annotate the enclosed application requesting a possible discharge upgrade. However, 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 that 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 did not present any issues of propriety or equity for the Board's consideration, but states the applicant accepts full responsibility for the behavior which led to the separation.

b. **Board Type and Decision:** In a records review conducted on 25 March 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 (PTSD diagnosis). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General, Under Honorable Conditions and changed the separation authority to AR 635-200, paragraph 14- 12a, the narrative reason for separation, and the reentry code are proper and equitable and will not change.

*Please see **Board Discussion and Determination** section for more detail regarding the Board's decision.*

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 24 August 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 1, dated 10 April 2003, reflects the applicant was found guilty of the following: Two specifications of failing to go at the prescribed time to the appointed place of duty; One specification of willfully disobeying a commissioned officer; Four specifications of disobeying a noncommissioned officer and/or being disrespectful in language towards a noncommissioned officer; One specification of making a false official statement; and one specification of wrongfully having intercourse with a woman not the applicant's wife.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210016965

(2) Adjudged Sentence: To be reduced to the grade of private/E-1; forfeiture of \$500 pay per month for three months; confinement for three months; and discharged from the service with a Bad Conduct discharge.

(3) Date/Sentence Approved: 13 January 2003 / except for that part of the sentence extending to a bad conduct discharge, would be executed.

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

(5) Date Sentence of BCD Ordered Executed: 21 December 2006

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 17 December 1999 / Indefinite

b. Age at Enlistment / Education / GT Score: 31 / HS Graduate / 115

c. Highest Grade Achieved / MOS / Total Service: E-6 / 31R10, Multichannel Transmission Systems Operator/Maintainer / 19 years, 2 months, 17 days

d. Prior Service / Characterizations: RA, 23 March 1988 – 16 December 1999 / HD

e. Overseas Service / Combat Service: Korea, Germany, SWA / Kuwait (5 October 1990 – 3 April 1991)

f. Awards and Decorations: AAM-4, AGCM-4, NDSM-2, SWASM-BSS-2, KDSM, NCOPDR-2, ASR, OSR-3, KLM (Saudi Arabia, Kuwait)

g. Performance Ratings: September 1999 – April 2000 / Among The Best
May 2000 – July 2001 / Fully Capable
August 2001 – July 2002 / Marginal

h. Disciplinary Action(s) / Evidentiary Record: See Court-Martial as described in item

i. Lost Time / Mode of Return: Confinement X 73 days / Released from confinement

j. Behavioral Health Condition(s):

(1) Applicant provided: The applicant provides post-service medical records pertaining to a diagnosis of post-traumatic stress disorder (PTSD)

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, DD Form 214, Personal Statement, Letters of Support-4, Medical Records, Documents from applicant's military personnel file (213 total pages)

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

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo]).

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when 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 provides the basic authority for the separation of enlisted personnel.

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

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Paragraph 3-7c states Under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(5) Chapter 3, Section IV establishes policy and procedures for separating members with a dishonorable or bad conduct discharge; and provides that a Soldier will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial; and that the appellate review must be completed, and the affirmed sentence ordered duly executed.

(6) In view of the fact relevant and material facts stated in a court-martial specification are presumed by the ADRB to be established facts, issues relating to the applicant's innocence of charges for which he was found guilty cannot form a basis for relief. With respect to a discharge adjudged by a special court-martial, the action of the ADRB is restricted to upgrades based on clemency. Clemency is an act of leniency that reduces the severity of the punishment.

(7) 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.

The applicant did not properly annotate the enclosed application requesting a possible discharge upgrade. However, 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 that 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.

The applicant's AMHRR indicates the applicant was adjudged guilty by a court-martial and the sentence was approved by the convening authority. With respect to a discharge adjudged by a special court-martial, the action of the ADRB is restricted to upgrades based on clemency. Clemency is an act of leniency that reduces the severity of the punishment.

The applicant did not present any issues of propriety or equity for the Board's consideration, but states the applicant accepts full responsibility for the behavior which led to the separation.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: PTSD (50%SC).

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for PTSD establishes nexus with active duty.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has a BH condition, PTSD, which mitigates some of his misconduct. As there is an association between PTSD, avoidant behavior and oppositionality, there is a nexus between his diagnosis of PTSD, his failure to reports and his disobeying a commissioned officer and an NCO. PTSD does not mitigate making a false official statement or committing adultery as PTSD does not affect one's ability to distinguish right from wrong and act in accordance with the right.

(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 or experience outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None

c. Response to Contention(s): The applicant did not present any issues of propriety or equity for the Board's consideration, but states the applicant accepts full responsibility for the behavior which led to the separation.

d. The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, the circumstances surrounding the discharge (PTSD diagnosis). Therefore, the Board voted to grant relief in the form of an upgrade of the

characterization of service to General, Under Honorable Conditions and changed the separation authority to AR 635-200, paragraph 14- 12a, the narrative reason for separation, and the reentry code are proper and equitable and will not change

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), length of time since discharge and concurred with the conclusion of the medical advising official that the applicant's (PTSD) does mitigate some of the applicant's misconduct (As there is an association between PTSD, avoidant behavior and oppositionality, there is a nexus between his diagnosis of PTSD, his failure to reports and his disobeying a commissioned officer and an NCO). Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was 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.

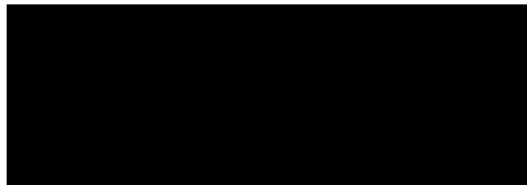
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: General
- c. Change Reason / SPD code to: No change
- d. Change RE Code to: No change
- e. Change Authority to: No change

Authenticating Official:

10/23/2025



Legend:

AWOL – Absent Without Leave
 AMHRR – Army Military Human Resource Record
 BCD – Bad Conduct Discharge
 BH – Behavioral Health
 CG – Company Grade Article 15
 CID – Criminal Investigation Division
 ELS – Entry Level Status
 FG – Field Grade Article 15

GD – General Discharge
 HS – High School
 HD – Honorable Discharge
 IADT – Initial Active Duty Training
 MP – Military Police
 MST – Military Sexual Trauma
 N/A – Not applicable
 NCO – Noncommissioned Officer
 NIF – Not in File
 NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
 OBH (I) – Other Behavioral Health (Issues)
 OMPF – Official Military Personnel File
 PTSD – Post-Traumatic Stress Disorder
 RE – Re-entry
 SCM – Summary Court Martial
 SPCM – Special Court Martial

SPD – Separation Program Designator
 TBI – Traumatic Brain Injury
 UNC – Uncharacterized Discharge
 UOTHC – Under Other Than Honorable Conditions
 VA – Department of Veterans Affairs