

1. Applicant's Name: [REDACTED]
- a. Application Date: 5 February 2022
- b. Date Received: 10 February 2022
- c. Counsel: [REDACTED]

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

a. **Applicant Requests:** The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade to honorable and a narrative reason change.

b. **Applicant Contention(s)/Issue(s):** Through counsel, the applicant requests relief contending they were suffering from undiagnosed Posttraumatic Stress Disorder (PTSD) from the applicant's service in Iraq, and utilized marijuana to self-medicate. The applicant has been subsequently diagnosed with PTSD through Veterans Affairs and requests this upgrade based on equity. The applicant served as an Army Intelligence Officer and deployed to Iraq in 2005, where they were tasked a mission which resulted in multiple casualties, including the death of a Soldier with whom the applicant had a close working relationship. The applicant was responsible for recovering the remains and notifying the next of kin; these events deeply traumatized the applicant.

(1) Upon redeployment, the applicant's performance rapidly declined, and the applicant began using marijuana to self-medicate undiagnosed PTSD symptoms. The applicant failed a urinalysis in December 2006 and subsequently submitted a resignation in lieu of court-martial, resulting in an other than honorable discharge in April 2007. At the time of separation, no PTSD diagnosis had been made. In 2014 and again in 2019, the applicant sought treatment at the VA, where they were ultimately diagnosed with PTSD directly linked to the Iraq deployment. The misconduct leading to discharge (isolated THC use) was a symptom of unaddressed combat-related trauma. In light of the current DoD guidance requiring liberal consideration for veterans whose misconduct was influenced by mental health conditions such as PTSD.

(2) The applicant had no prior history of misconduct, was rated "Best Qualified" while deployed, and had been selected for promotion to Captain. Counsel contended, under the Kurta memo (2017) and related policy, the applicant's discharge should be upgraded based on the clear connection between their combat trauma and post-deployment behavioral decline. Counsel concluded that it would be inequitable to continue denying VA benefits and honorable recognition for service impacted by untreated combat-related PTSD.

c. **Board Type and Decision:** In a records review conducted on 19 September 2025, and by a 5-0 vote, the Board determined the discharge is inequitable because the applicant's combat-related PTSD outweighed the misconduct of wrongful use of marijuana. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable. The Board voted not to change the applicant's reason for discharge or SPD code, as the reason the applicant was discharged was both proper and equitable.

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: In Lieu of Trial by Court-Martial / AR 600-8-24, Chapter 3-13 / DFS / NA / Under Other than Honorable Conditions

b. Date of Discharge: 20 April 2007

c. Separation Facts:

(1) Date of Notification of Intent to Separate: NIF

(2) Basis for Separation: NIF

(3) Board of Inquiry (BOI) Date: NIF

(4) Legal Consultation Date: NIF

(5) GOSCA Recommendation Date / Characterization: NIF

(6) DA Board of Review for Eliminations: NIF

(7) DASA Review Board Decision Date / Characterization: NIF

4. SERVICE DETAILS:

a. Date / Period of Appointment: 7 November 2003 / Indefinite

b. Age at Appointment / Education: 26 / Bachelor's Degree

c. Highest Grade Achieved / AOC / Total Service: O-2 / 35D All Source Intelligence Officer / 3 years, 5 months, 14 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq

f. Awards and Decorations: AAM, GWTEM, GWTSM [on the ERB, missing from the DD Form 214], ASR-2, OSR

g. Performance Ratings: 2LT, 10 June – 31 December 2004 / Fully Qualified

- 1LT, 1 January – 31 December 2005 / Best Qualified
- 1LT, 19 September 2006 – 20 April 2007 / Do Not Promote

h. Disciplinary Action(s) / Evidentiary Record: On 30 January 2007, the applicant voluntarily tendered their resignation from the Army for the good of the service under the provisions of AR 600-8-24, Chapter 3-13, as they did not desire to appear before a court-martial or board of officers. The applicant had not been subject to coercion with respect to this resignation and was advised of and fully understood the implications of this action. They

understood the resignation, if accepted, could be considered as being under other honorable conditions characterization of service.

i. **Lost Time / Mode of Return:** None

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:** A Rating Decision, dated 22 May 2014, provides the applicant was eligible for VA healthcare under Chapter 17 of Title 38, U.S.C. for any disabilities determined to be service-connected for this period of service only.

(2) **AMHRR provided:** None

5. **APPLICANT-PROVIDED EVIDENCE:** Application for the Review of Discharge; Legal Brief; Certificate of Release or Discharge from Active Duty; Service Records; Medical Records; VA Rating Decision; VA Medical Records

6. **POST SERVICE ACCOMPLISHMENTS:** None provided with this application.

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

a. 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.

b. 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.

c. 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.

d. 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.

e. Army Regulation 600-8-24 (Officer Transfers and Discharges) sets forth the basic authority for the separation of commissioned and warrant officers.

(1) Paragraph 1-23, provides the authorized types of characterization of service or description of separation.

(a) An officer will normally receive an honorable characterization of service when the quality of the officer's service has met the standards of acceptable conduct and performance of duty, or the final revocation of a security clearance under DODI 5200.02 and AR 380-67 for reasons that do not involve acts of misconduct for an officer.

(b) An officer will normally receive a general (under honorable conditions) characterization of service when the officer's military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A separation under general (under honorable conditions) normally appropriate when an officer: Submits an unqualified resignation; Separated based on misconduct; discharged for physical disability resulting from intentional misconduct or neglect; and, for final revocation of a security clearance.

(c) A discharge under other than honorable conditions is an administrative separation from the service. A discharge certificate will not be issued. An officer will normally receive an under other than honorable conditions when he or she: Resigns for the good of the Service; is dropped from the rolls (DFR) of the Army in accordance with paragraph 5–9; (3) is involuntarily separated due to misconduct, moral or professional dereliction, or for the final revocation of a security clearance under DODI 5200.02 and AR 380-67 as a result of an act or acts of misconduct, including misconduct for which punishment was imposed; and, is discharged following conviction by civilian authorities.

(2) Chapter 3, prescribes the rules for processing voluntary resignations. Except as provided in paragraph 3-1b, any officer of the RA or USAR may tender a resignation under the provisions of this chapter. SECARMY (or designee) may accept resignations and orders will be issued by direction of the CG, HRC. An officer whose resignation has been accepted will be separated on the date specified in DA's orders or as otherwise directed by the DA. An appropriate discharge certificate as specified by the CG, HRC, will be furnished by the appropriate commander at the time the officer is separated. The date of separation, as specified or directed, will not be changed without prior approval of HQDA nor can valid separation orders be revoked subsequent to the specified or directed date of separation.

(3) Chapter 4 (Officer Transfers and Discharges) outlines the policy and procedure for the elimination of officers from the active Army for substandard performance of duty. Paragraph 4-2b, prescribes for the elimination of an officer for misconduct, moral or professional dereliction, or in the interests of national security. An officer identified for elimination may, at any time during or prior to the final action in the elimination case elect one of the following options: (1) Submit a resignation in lieu of elimination; (2) request a discharge in lieu of elimination; and (3) Apply for retirement in lieu of elimination if otherwise eligible.

f. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers for ASAP services. 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. All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

(1) 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. ASAP participation is mandatory for all Soldiers who are command referred. Failure to attend a mandatory counseling session may constitute a violation of Article 86 (Absence Without Leave) of the UCMJ.

(2) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(3) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(4) All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

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 "DFS" as the appropriate code to assign for members who are discharged under the provisions of Army Regulation 600-8-24, Chapter 3-13, in lieu of trial by court-martial.

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

a. The applicant requests an upgrade to honorable and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

(1) A DD Form 214 provides the applicant was discharged under the provisions of AR 600-8-24, Chapter 3-13, in lieu of trial by court-martial with an under other honorable conditions characterization of service. In January 2007, the applicant received a positive urinalysis for wrongful use of marijuana. The same month, they voluntarily tendered their resignation from the Army for the good of the service under the aforementioned provisions. They served 3 years, 5 months, and 14 days of an indefinite appointment.

(2) A Rating Decision, dated 22 May 2014, provides the applicant was eligible for VA healthcare under Chapter 17 of Title 38, U.S.C. only for any disabilities determined to be service-connected for this period of service.

(3) Through counsel, the applicant contends, during their deployment in Iraq in 2005, a mission they were assigned led to a Soldier's death and multiple injuries. The applicant was deeply affected by this event and began experiencing symptoms of what was later diagnosed as PTSD. At the time, however, the applicant's condition was undiagnosed and they self-medicated with marijuana to cope. Following their return from deployment, their performance declined and the applicant failed a drug test in 2006, and subsequently chose to resign in lieu of court-martial, receiving an OTH discharge in 2007. Years later, the VA formally diagnosed them with PTSD

linked to their deployment. Counsel asserts the discharge was unjust because it failed to consider their mental health conditions, which directly influenced their behavior. Counsel states DoD policies require liberal consideration for discharge upgrade in cases involving PTSZD and emphasized the applicant had a strong service record prior to their trauma and this misconduct, marijuana use, was a symptom of untreated PTSD. Counsel concludes in fairness and justice, the applicant's discharge should be upgraded to honorable to reflect their service and enable access to VA benefits.

b. Army Regulation 600-8-24, paragraph 3-13 states a voluntary discharge request in-lieu of trial by court-martial, a discharge under other than honorable conditions normally is appropriate.

c. Chapter 3, prescribes the rules for processing voluntary resignations. Except as provided in paragraph 3-1b, any officer of the RA or USAR may tender a resignation under the provisions of this chapter. SECARMY (or designee) may accept resignations and orders will be issued by direction of the CG, HRC. An officer whose resignation has been accepted will be separated on the date specified in DA's orders or as otherwise directed by the DA. An appropriate discharge certificate as specified by the CG, HRC, will be furnished by the appropriate commander at the time the officer is separated. The date of separation, as specified or directed, will not be changed without prior approval of HQDA nor can valid separation orders be revoked subsequent to the specified or directed date of separation.

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: PTSD, subsumed MDD, Cannabis Use.

(2) Did the condition exist, or experience occur during military service? **Yes.** Combat exposure, Cannabis Use

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that if drug use is the basis, given the trauma occurred prior to with a nexus between trauma and substance use, there is mitigation.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the trauma outweighed the basis of separation, positive UA.

b. Prior Decisions Cited: None

c. Response to Contention(s): Through counsel, the applicant contends the contentions listed in section **2.b(1-2)** of this document.

d. The Board voted to change the applicant's characterization of service to Honorable because, the applicant's combat-related PTSD mitigated the applicant's wrongful use of marijuana. Additionally, the Board noted the applicant possessed in-service factors of length, prior Honorable discharge in the USAR, quality and combat service. Thus, the prior characterization is no longer appropriate. The Board voted not to change the applicant's reason for discharge or accompany SPD code, as the reason the applicant was discharged was both proper and equitable. As the applicant was an Army Officer, there is no reentry code supplied upon discharge, honorable or otherwise. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

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 Honorable because the discharge, though procedurally proper, was mitigated by combat-related PTSD that outweighed the basis of separation.

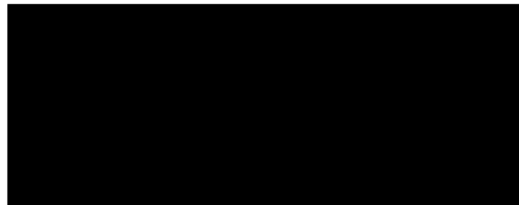
(3) The Board voted not to change the applicant's reason for discharge or SPD code, as the reason the applicant was discharged was both proper and equitable.

(4) 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: Honorable
- c. Change Reason / SPD code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change
- f. Authenticating Official: No Change

10/4/2025



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
 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