

1. Applicant's Name: [REDACTED]

a. **Application Date:** 30 November 2021

b. **Date Received:** 7 December 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 under other than honorable conditions. The applicant requests an upgraded characterization of service to general (under honorable conditions) or honorable.

b. **Applicant Contention(s) / Issue(s):** The applicant requests relief contending, in effect, in 2011, the applicant sustained a traumatic brain injury (TBI) during a training accident, which led to significant mental health challenges and poor conduct. Instead of receiving support, the applicant was subjected to harmful remarks from team members, including encouragement to commit suicide, resulting in two attempts. Discharged from the Army in December 2012 without fully understanding the documentation, the applicant was left to manage the condition alone.

c. **Board Type and Decision:** In a records review conducted on 10 March 2026, and by a 3-0 vote, the Board granted the request upon finding the separation was inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge OBHI diagnoses of Adjustment Disorder w/Anxiety and Depressed Mood, Adjustment Disorder w/Disturbance of Emotion and Conduct, Chronic Adjustment Disorder. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General (Under Honorable Conditions). The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them. 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 635-200, Chapter 10 / KFS / RE-4 / Under Other than Honorable Conditions

b. **Date of Discharge:** 7 December 2012

c. **Separation Facts:**

(1) **Date Charges Preferred / DD Form 458 (Charge Sheet):** NIF

(2) **Legal Consultation Date:** 1 October 2012

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

(4) **CDR / Intermediate CDR Recommended Characterization:** Under Other than Honorable Conditions

(5) **Separation Approval Decision Date / Characterization:** 8 November 2012 / Under Other than Honorable Conditions

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment Under Review:** 5 April 2011 / 3 years
- b. **Age at Enlistment / Education / GT Score:** 21 / HS Graduate / 101
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / 11B1O, Infantryman / 1 year, 7 months, 5 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** GWOTSM, ASR
- g. **Performance Ratings:** N/A

h. Disciplinary Action(s) / Evidentiary Record: The applicant's separation packet contains five counseling statements dated between 17 November 2011 - 28 March 2012 for failure to report, insubordinate conduct, missing an appointment, and two instances of wrongful use, possession etc. of a controlled substance.

(1) The applicant's separation packet contains a two laboratory confirmed biochemical test results and two electronic copies of a DD Form 2624 (Specimen Custody Document) drug test results which are marked Rehabilitation Testing (RO), these documents show the applicant's urine was collected and tested positive for THC (marijuana) on the following dates: 8 November 2011, 8 December 2011, and 12 February 2012.

(2) On 29 January, CID (Criminal Investigations Division) investigative summary reflects the applicant was accused of stealing another Soldier's TA-50 gear from a secured locker in the unit gear room. After waiving their rights, the applicant initially admitted to taking only the vest with plates but later confessed to taking all the missing gear and possessing marijuana and paraphernalia at their off-post residence, which was confirmed during a search. On March 2012, CID notified the station of offenses involving wrongful use and possession of marijuana and failure to obey a general order. The investigation found probable cause after approximately 9.36 grams of marijuana and drug paraphernalia were discovered at the applicant's off-post residence, and the applicant waived their rights and admitted to using and possession marijuana and paraphernalia.

(3) On 8 November 2012, after consulting with counsel, the applicant voluntarily requested discharge in lieu of trial by court-martial under AR 635-200, Chapter 10, acknowledging guilt to the charged or lesser offenses. They affirmed no coercion, confirmed counsel briefed them on the consequences, and understood an under other than honorable conditions discharge could be approved. The applicant elected to submit a personal statement and defense counsel endorsed the request, confirming the applicant was counseled on their rights and the potential outcome of a Chapter 10 discharge.

- i. **Lost Time / Mode of Return:** 29 days / NIF

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: The applicant asserts a TBI while on active duty in 2011. The related medical documentation was requested on 23 May 2022; however, nothing additional was received.

(2) AMHRR provided: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293

6. POST SERVICE ACCOMPLISHMENTS: None submitted 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 600-85 (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.

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:

(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. 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 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.

(a) 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.

(b) 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.

(2) Chapter 10, Discharge in Lieu of Trial by Court Martial is applicable to members who had committed an offense or offenses for which the authorized punishment included a bad conduct, or dishonorable discharge could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or general discharge was authorized, an under other than honorable conditions discharge was normally considered appropriate, unless the record was so meritorious it would warrant an honorable.

(a) After receiving legal counseling, the soldier may elect to submit a request for discharge in lieu of trial by court-martial. The soldier will sign a written request, certifying that they have been counseled, understands their rights, and may receive a discharge under other than honorable conditions.

(b) The following documents will accompany the request for discharge:

- A copy of a Charge Sheet (DD Form 458)
- Report of medical examination and mental status evaluation, if conducted
- A complete copy of all reports of investigation
- Any statement, documents, or other matter considered by the commanding officer in making his/her recommendation, including any information presented for consideration by the soldier or consulting counsel.
- A statement of any reasonable ground for belief that the soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

(c) Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8, for discharges between June 2004 and 30 September 2021.

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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu Trial by Court-Martial.

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

(1) An authenticated DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged under the provisions of AR 635-200, Chapter 10 in lieu of trial by court-martial with an under other than honorable conditions characterization of service. The applicant was charged with wrongful possession of paraphernalia in violation of Article 92, UCMJ; two Article 107 specifications for false official statements; three Article 112a specifications for wrongful possession and use of marijuana; and two Article 121 specifications for stealing military property worth more than \$500.

(2) In consultation with legal counsel, the applicant voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. They served 1 year, 7 months, and 5 days of a 3 year, 16-week contractual obligation.

b. The applicant contends sustaining a TBI during a training accident, which led to significant mental health challenges and poor conduct. Supporting medical documentation was requested on 23 May 2022, although no records were provided.

c. 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 discharge in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. For Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

9. 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: Adjustment Disorder w/Anxiety and Depressed Mood, Adjustment Disorder w/Disturbance of Emotion and Conduct, Chronic Adjustment Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant was diagnosed with multiple Adjustment Disorders during service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that a view of the records reflects the applicant has in-service BH diagnoses that partially mitigates his misconduct as outlined in the BoS. The applicant was diagnosed in-service with Adjustment Disorder with Anxiety and Depressed Mood and Anxiety Disorder with Disturbance of Emotion and Conduct and was in the process of being separated under provision of Chapter 5-17 prior to committing additional misconduct. While Adjustment Disorder are often not afforded relief under liberal guidance, in the current case there is sufficient evidence the conditions were of sufficient severity to provide some mitigation. The records document two hospitalization for SI and depressed mood, an asserted history of six foiled suicide attempts during service, and treatment for the conditions that make them chronic in nature. The record was void of a TBI diagnosis. Given the nexus between the applicant BH conditions and use of substances to self-medicate, their misconduct characterized by wrongful possession and use of marijuana and wrongful possession of paraphernalia is mitigated. However, the applicant's misconduct characterized by making a false official statement and stilling military property is not mitigated. Given only partial mitigation, with the most egregious misconduct not mitigated, upgrade based on medical mitigation is not supported.

(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 condition or experience outweighed the basis of separation.

b. Prior Decisions Cited: None

c. Response to Contention(s): The applicant contends the applicant sustained a TBI during a training accident, which led to significant mental health challenges and poor conduct. The Board determined that this contention was valid and voted to upgrade the characterization of service due to Adjustment Disorder w/ Anxiety and Depressed Mood, Adjustment Disorder w/ Disturbance of Emotion and Conduct and Chronic Adjustment Disorder mitigating the applicant's wrongful possession and use of THC.

d. The Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge OBHI diagnoses of Adjustment Disorder w/Anxiety and Depressed Mood, Adjustment Disorder w/Disturbance of Emotion and Conduct, Chronic Adjustment Disorder. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

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.

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(2) The Board voted to change the applicant's characterization of service to General (Under Honorable Conditions) because the applicant's Adjustment Disorder w/Anxiety and Depressed Mood, Adjustment Disorder w/Disturbance of Emotion and Conduct, Chronic Adjustment Disorder mitigated the applicant's misconduct of THC abuse. Thus, the prior characterization is no longer appropriate.

(3) 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.

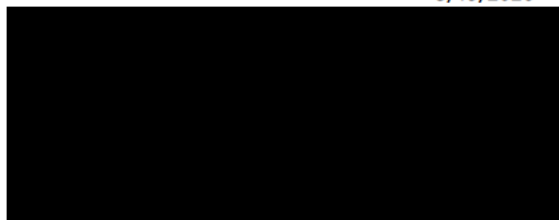
(4) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

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

Authenticating Official:

3/19/2026

**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