

1. Applicant's Name: [REDACTED]**a. Application Date:** 17 February 2022**b. Date Received:** 17 February 2022**c. Counsel:** None**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 Under Other Than Honorable Conditions. The applicant requests an upgrade to General (Under Honorable Conditions) and a change of the narrative reason for separation.

(2) The applicant seeks relief contending they understand their decision eight years ago was a bad one. They have since moved on and became a better person. They have worked hard to make the best of it and doing so they were able to become a certified Law Enforcement Officer. They think becoming a Law Enforcement Officer should shed light on their character and discipline and of the person they have become. They ask for a second chance and for their discharge to be upgraded. They know the mistake they made and they have lived with it on their shoulders for years. They know they are a better person now and this upgrade is extremely important to them. With an upgrade they are going to try and enlist and fulfill their commitment.

b. Board Type and Decision: In a records review conducted on 26 January 2026, and by a 2-1 vote, after carefully examining the applicant's record of service during the period of enlistment under review and all other evidence presented, the Board determined that clemency is warranted based on an inequity considering the circumstances surrounding the AWOL, applicant's length and quality of service. Accordingly, the Board voted to grant relief by upgrading the applicant's characterization of service to General, Under Honorable Conditions, with a Re-entry code of 3. The Board voted not to change the narrative reason for separation, as it was proper and equitable. Please see **Board Discussion and Determination** section 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: 18 June 2014**c. Separation Facts:**

(1) **Date Charges Preferred / DD Form 458 (Charge Sheet):** On 5 June 2014 / Charge I, violation of Article 86 (AWOL) with one Specification, in that they did, on or about 9 June 2013, without authority, absent themselves from their organization, located at Fort Bragg, NC, and did remain so absent until on or about 31 May 2014.

(2) **Legal Consultation Date:** 5 June 2014

(3) **Basis for Separation:** Pursuant to the Applicant's voluntary request for discharge under the provisions of Army Regulation 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: 13 June 2014 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Reenlistment Under Review: 12 February 2013 / 5 years

b. Age at Reenlistment / Education / GT Score: 20 / HS Diploma / NIF

c. Highest Grade Achieved / MOS / Total Service: E-4 / 18X1P, Special Forces Recruit / 4 years, 3 months, 17 days

d. Prior Service / Characterizations: ARNG, 2 March 2010 – 11 February 2013 / HD

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDSM, GWTSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DD Form 616 (Report of Return of Absentee) dated 1 June 2014 reflects the applicant apprehended by civil authorities and was returned to military control on 31 May 2014.

(2) A memorandum, U.S. Army Personnel Control Facility, subject: AWOL/Interview Report Chapter 10/Chapter 14, dated 4 June 2014, reflects the applicant was interviewed and stated they went AWOL because of family issues and personal problems. The applicant does not request to remain on active duty.

(3) A DD Form 458 (Charge Sheet) dated 5 June 2014, reflects charges were preferred against the applicant with Charge I, violation of Article 86 (AWOL) with one Specification, in that they did, on or about 9 June 2013, without authority, absent themselves from their organization, located at Fort Bragg, NC, and did remain so absent until on or about 31 May 2014.

(4) In the applicant's memorandum, subject: Request for Discharge in Lieu of Trial by Courts-Martial, dated 5 June 2014, reflects the applicant voluntarily requested Discharge In Lieu of Trial by Courts-Martial under Army Regulation 635-200, chapter 10. They understand that they may request discharge in lieu of trial by court-martial because of the charge preferred against them under the UCMJ, which authorizes the imposition of a bad conduct or dishonorable discharge. They are making this request of their own free will and have not been subjected to any coercion whatsoever by any person. By submitting this request for discharge, they acknowledge they understand the elements of the offense charged and am guilty. Moreover, they thereby state that under no circumstances do they desire further rehabilitation, for they have no desire to perform further military service.

(a) Prior to completing this form, they have been afforded the opportunity to consult with their appointed counsel. They have been advised of the nature of their rights under the UCMJ, the elements of the offenses with which they are charged, the facts which must be

established by competent evidence beyond a reasonable doubt to sustain a finding of guilty; the possible defenses which appear to be available at the time, and the maximum permissible punishment if found guilty.

(b) They understand that, if their request for discharge is accepted, they may be discharged under conditions which are Under Other Than Honorable Conditions. They have been advised and understand the possible effects of an Under Other Than Honorable Conditions Discharge and that, as a result of the issuance of such a discharge they will be deprived of many or all Army benefits, that they may be ineligible for many or all benefits administered by the Department of Veterans Affairs (VA), and that they may be deprived of their rights and benefits as a veteran under both Federal and State law. They further understand they may expect to encounter substantial prejudice in civilian life because of an Under Other Than Honorable Conditions discharge.

(c) They have been advised that they may submit statements and elected not to submit statements with this request.

(5) A DA Form 4187 (Personnel Action) dated 10 June 2014 reflects the applicant's duty status changed from Dropped From Rolls to Present for Duty/Returned to Military Control, effective 2325 hours, 31 May 2014. The applicant was apprehended by civilian authorities.

(6) A memorandum, Headquarters, U.S. Army Garrison, Fort Sill, U.S. Army Personnel Control Facility, subject: Request for Discharge in Lieu of Trial by Court-Martial, dated 11 June 2014, reflects the company commander states the applicant is charged with one specification of AWOL totaling 359 days and was apprehended by civilian authorities. The separation of the applicant is in the best interest of the Army. The commander recommended approval with a discharge characterization of an Under Other Than Honorable Conditions.

(7) A memorandum, subject: Request for Discharge in Lieu of Trial by Court-Martial – [Applicant], dated 13 June 2014, reflects the Trial Counsel reviewed the applicant's Request for Discharge in Lieu of Trial by Court-Martial. They stated there is no legal objections to further processing the request in accordance with the unit commander's recommendation.

(8) A memorandum, Headquarters, U.S. Army Garrison, Fort Sill, subject: Request for Discharge in Lieu of Trial by Court-Martial, [Applicant], dated 13 June 2014, the separation authority approved the applicant's request for discharge in lieu of trial by court-martial. The commander directed the applicant be discharged with an Under Other Than Honorable Conditions discharge.

(9) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 18 June 2014, with 4 months, and 15 days of net active service this period. The DD Form 214 shows in –

- item 18 (Remarks) – in part, Excess Leave (Creditable for all purposes except Pay and Allowances) – 13 Days – 20140606 – 20140618; MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 26 (Separation Code) – KFS
- 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) – 20130609 - 20140530

i. Lost Time / Mode of Return: 356 Days (9 June 2013 – 30 May 2014) / Apprehended by Civilian Authorities

j. Behavioral Health Condition(s): None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States) with letter
- Law Enforcement Officer Training Certificate

6. POST SERVICE ACCOMPLISHMENTS: None submitted 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, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

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

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

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

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

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

e. Army Regulation 15-180 (Army Discharge Review Board), dated 6 September 2011, sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

f. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) prescribes policies and standards to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

(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) 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

(5) Paragraph 10-8 (Types of Discharge, Characterization of Service) states 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.

(6) Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis. If Secretarial Authority is granted normally correct the record to show the following:

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

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 "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.

h. 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.

i. 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 Article 86 (AWOL).

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. The evidence in the applicant's AMHRR confirms the applicant was charged with the commission of offense punishable under the UCMJ with a punitive charge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of Army Regulation 635-200, chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted to the offense, or a lesser included offense, and indicated an understanding a Bad Conduct or Dishonorable Discharge could be received. Their DD Form 214 (Certificate of Release or Discharge from Active Duty) provides they were discharged under the provisions of Army Regulation 635-200, chapter 10, by reason of In Lieu of Trial by Court-Martial, with a characterization of service of Under Other Than Honorable Conditions. They completed 4 months, and 15 days of net active service this period and completed their first full term of service; however, they did not complete their five year enlistment 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.

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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused, or mitigated a discharge.

(2) Did the condition exist, or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends they understand their decision eight years ago was a bad one. They have since moved on and became a better person. They have worked hard to make the best of it and doing so they were able to become a certified Law Enforcement Officer. The applicant contends they think becoming a Law Enforcement Officer should shed light on their character and discipline and of the person they have become. They know the mistake they made, and they have lived with it on their shoulders for years. They know they are a better person now and this upgrade is extremely important to them. The applicant contends with an upgrade they are going to try and enlist and fulfill their commitment. The Board considered the applicant's post service and length and quality of service during deliberations and found that the current discharge is too harsh given the applicant's length and quality of service. Though it did not raise to a level commiserate with an Honorable characterization of service.

d. The Board determined: Applying liberal consideration, the Board—in a split vote, 2-1, determined an upgrade was warranted based on inequity. The applicant had length and quality of service, with completion of airborne training, the Board also considered the applicant's reason for AWOL compelling. The relief granted is an upgrade in the discharge.

e. Rationale for Decision:

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

(2) The Board voted to change the applicant's characterization of service to General (Under Honorable Conditions) because clemency is warranted given the applicant's length and quality of service, post service accomplishments, and the circumstances surrounding the AWOL. Thus, the prior characterization is no longer appropriate.

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

(4) The RE code will change to Re3.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD Form 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: Re-3**
- e. Change Authority to: No Change**

Authenticating Official:

2/5/2026



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

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