

**1. Applicant's Name:**

- a. **Application Date:** 18 January 2022
- b. **Date Received:** 26 January 2022
- c. **Counsel:** None

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

a. **Applicant's Requests and Issues** The current characterization of service for period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and change to the RE code for reenlistment.

b. The applicant seeks relief contending, in effect, the applicant tested positive for marijuana and cocaine, and as a result was discharged for failing two urinalysis tests, however the applicant was only notified of the second failure. The applicant has mental issues related to the applicant's drug use and was not counseled or offered help. The applicant is receiving treatment therapy for past sexual abuse which resulted in drug abuse. The applicant completed 75 percent of the applicant's contract as an accountable and satisfactory Soldier.

c. **Board Type and Decision:** In a records review conducted on 22 January 2025, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

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

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** NIF / AR 135-178 / NIF / NIF / General (Under Honorable Conditions)

b. **Date of Discharge:** 3 November 2017

c. **Separation Facts:**

- (1) **Date of Notification of Intent to Separate:** NIF
- (2) **Basis for Separation:** NIF
- (3) **Recommended Characterization:** NIF
- (4) **Legal Consultation Date:** NIF
- (5) **Administrative Separation Board:** NA
- (6) **Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 6 May 2013 / 8 years
- b. **Age at Enlistment / Education / GT Score:** 18 / NIF / 99

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20220003898**

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 88M10, Motor Transport Operator / 4 years, 5 months, and 29 days

**d. Prior Service / Characterizations:** ADT, 22 July 2013 - 22 November 2013 / HD

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** NDSM, ASR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Orders 12-254-00027, 10 September 2012, shows the applicant was discharged from the U.S. Army Reserve (USAR) on 17 November 2017 under the authority of AR 135-178 (Enlisted Administrative Separations), with a general (under honorable conditions) characterization of service.

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

**j. Behavioral Health Condition(s):**

**(1) Applicant provided:** The Summit Counseling Center Client Information Form shows the applicant requested an assessment and therapy for sexual abuse. The applicant was diagnosed with unspecified trauma and stressor-related disorder on 8 September 2022.

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; self-authored letter; DD Form 214; military records; separation orders; and The Summit Counseling Center records.

**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 considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board) 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 135-178 (Enlisted Administrative Separations) sets forth the policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard and USAR enlisted Soldiers for a variety of reasons. The separation policies throughout the different Chapters in this regulation promote the readiness of the Army by providing an orderly means to judge the suitability of persons to serve on the basis of their conduct and their ability to meet required standards of duty performance and discipline. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, and convictions by civil authorities.

(1) Paragraph 2-7 prescribes possible characterizations of service include an honorable, general (under honorable conditions), under other than honorable conditions, or

uncharacterized if the Soldier is in entry-level status. However, the permissible range of characterization varies based on the reason for separation.

(2) Paragraph 2-8, prescribes the characterization is based upon the quality of the Soldier's service, including the reason for separation, and determined in accordance with standards of acceptable personal conduct and performance of duty as found in the UCMJ, Army regulations, and the time-honored customs and traditions of the Army. The reasons for separation, including the specific circumstances that form the basis for the discharge are considered on the issue of characterization.

(3) Chapter 13 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 memorandums. 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.

a. The applicant requests an upgrade to honorable and change to the RE code for reenlistment. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the Army Reserve. The applicant's AMHRR does contain a properly constituted discharge order: Orders 17-300-00020, 27 October 2017. The orders indicate the applicant was discharged on 3 November 2017 under the provisions of AR 135-178, with a characterization of service of General (Under Honorable Conditions).

c. The applicant requests an RE Code change for reenlistment. Orders are published when service members are discharged from the USAR, which indicate the effective date and characterization of the discharge. Narrative reasons and RE Codes usually are not included in the order. Inasmuch as the applicant's discharge order does not have these elements, the ADRB has no basis for changing the discharge order. If the applicant desires to rejoin the military, local recruiters can determine eligibility to reenlist. Recruiters can best advise a former service member as to the needs of the Army at the time and are required to process waivers of reenry eligibility.

d. The applicant contends, in effect, the applicant tested positive for marijuana and cocaine, and as a result was discharged for failing two urinalysis tests, however the applicant was only notified of the second failure. The applicant has mental issues related to the applicant's drug use and was not counseled or offered help. The applicant is receiving treatment therapy for past sexual abuse which resulted in drug abuse. The applicant completed 75 percent of the applicant's contract as an accountable and satisfactory Soldier.

(1) The applicant's AMHRR is void of urinalysis test records and circumstances concerning the events which led to the discharge.

(2) The applicant provided records from the Summit Counseling Center that shows the applicant was diagnosed with unspecified trauma and stressor-related disorder on 8 September 2022.

(3) The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

e. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

#### 9. BOARD DISCUSSION AND DETERMINATION:

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

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records were void. However, the applicant asserts trauma which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge. Unspecified Trauma and Stressor Related Disorder

(2) Did the condition exist or experience occur during military service? **Yes.** Per applicant's assertion alone - Unspecified Trauma and Stressor Related Disorder

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that while the applicant's assertion with 2022 note acknowledged, there is no mitigation at this time due to the lack of clarity on whether symptoms existed in-service and impacted discharge. Nonetheless, the Board could accept the applicant's assertion his use was carried over from pre-enlistment as a means of managing childhood trauma.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the applicant's conditions outweighed the medically unmitigated list offenses.

b. Prior Decisions Cited: None

c. Response to Contention: The applicant contends, in effect, the applicant tested positive for marijuana and cocaine, and as a result was discharged for failing two urinalysis tests, however the applicant was only notified of the second failure. The applicant has mental issues related to the applicant's drug use and was not counseled or offered help. The applicant is receiving treatment therapy for past sexual abuse which resulted in drug abuse. The applicant completed 75 percent of the applicant's contract as an accountable and satisfactory Soldier. The Board considered this contention and the applicant's assertion of Unspecified Trauma and Stressor Related Disorder. However, the Board could not determine whether the applicant's asserted Unspecified Trauma and Stressor Related Disorder actually outweighed the applicant's two-time Drug Abuse without the Board Medical Advisor determination on medical mitigation. Therefore, the applicant's General (Under Honorable Conditions) discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

**d.** The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the 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)** The Board voted not to change the applicant's characterization of service based on the following reasons. The Board members noted the applicant was discharged for drug use and is now seeking reenlistment. Board members also noted the medical records show an extensive history of drug use. The applicant was discharged for two-time use of marijuana and cocaine and during post-service, he was charged for criminal damage to property in 2021. The Board determined a discharge upgrade to Honorable was not warranted based on the multiple acts of misconduct in the applicant's file with no medical mitigation. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

**(2)** The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same rationale, 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:** No
- b. Change Characterization to:** No change
- c. Change Reason / SPD code to:** No change
- d. Change RE Code to:** No change
- e. Change Authority to:** No change

**Authenticating Official:**

1/23/2025

**X**

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Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**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