

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 1 September 2021
- b. **Date Received:** 9 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 Bad Conduct. The applicant requests an upgrade to General (Under Honorable Conditions) or Honorable.

(2) The applicant seeks relief contending they are asking for relief so they can receive medical, dental and other benefits for their family and them. They understand they made mistakes in their life and have lived with the outcome. They are trying to better their life and they know if they could receive a better discharge it would allow a lot of new doors to open for their future. They hope to use these benefits to help with their living situation, their Post Traumatic Stress Disorder (PTSD), anxiety/depression and to help get a better job/career.

b. Board Type and Decision: In a records review conducted on 12 November 2025, and by a 3-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include overseas service, harshness, and clemency based on the length of time since discharge. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General, Under Honorable Conditions. Board member names available upon request.

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 18 February 2011

c. Separation Facts:

(1) Pursuant to Special Court-Martial Empowered to Adjudge a Bad-Conduct Discharge: As announced by Special Court-Martial Order Number 10, 4 November 2010, on 8 April 2010, the applicant was found guilty of the following –

- (a) Charge I, in violation of Article 86, for
- (b) Charge II, in violation of Article 112a, for

(2) Adjudged Sentence: confinement for 180 days and a Bad-Conduct Discharge.

(3) Date / Sentence Approved: 4 November 2010 / Only so much of the sentence, a confinement for 8 months and a Bad-Conduct Discharge was approved and, except for the part of the sentence extending to a bad conduct discharge, would be executed. The applicant was credited with 58 days of confinement towards the sentence to confinement.

(4) Appellate Reviews: The United States Army Court of Criminal Appeals affirmed the findings of guilty and the sentence, adjudged on 12 November 2009 and as entered by the judgment dated 4 November 2010, have been affirmed.

(5) Date Sentence of Bad Conduct Discharge Ordered Executed: 4 November 2010

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 3 August 2005 / 3 years, 24 weeks

b. **Age at Enlistment / Education / GT Score:** 20 / HS Diploma / 82

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 14S1O, Avenger Crewmember / 6 years, 8 months, 7 days

d. **Prior Service / Characterizations:** ARNG, 26 February 2004 – 2 August 2005 / Honorable

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

f. **Awards and Decorations:** AAM-4, NDSM, GWTSM, ASR

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:**

(1) A Headquarters, Fort Bliss Special Court-Martial Order Number 2, dated 8 April 2010, reflects the applicant plead guilty and was found guilty on Charge I, in violation of Article 86 (Absent Without Leave (AWOL)), on seven Specifications of failure to go at the time prescribed to their appointed place of duty and five Specifications of, that they did, without authority, absent themselves from their unit. They applicant plead guilty and found guilty on Charge II, in violation of Article 112a (Wrongful use of controlled substances), on four Specifications of wrongfully using marijuana, cocaine, methylenedioxyamphetamine and methylenedioxymethamphetamine. The applicant's sentence was adjudged on 12 November 2009 – to be discharged from the service with a bad conduct discharge and to be confined for six months. Only so much of the sentence as provides for a bad-conduct discharge and confinement for 180 days is approved and, except for the bad-conduct discharge, will be executed. The accused will be credited with 58 days of confinement credit against the sentence to confinement. That part of the sentence extending to confinement has been served.

(2) A Headquarters, U.S. Army Fires Center of Excellence and Fort Sill Special Court-Martial Order Number 150, dated 4 November 2010, reflects, in the special court-martial case of the applicant, the sentence to confinement for 180 days and a Bad-Conduct Discharge, adjudged on 12 November 2009, as promulgated in Special Court-Martial Order Number 2, Headquarters, Fort Bliss, dated 8 April 2010, has been finally affirmed. The accused was credited with 58 days of confinement against the sentence to confinement. Article 71(c) having been complied with, the Bad-Conduct Discharge will be executed.

(3) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 18 February 2011, with 5 years, 3 months, and 21 days of net active service this period. Their DD Form 214 shows in –

- item 18 (Remarks) – in part,

- Excess Leave (Creditable for all purposes except pay and allowances) – 361 Days (20100223 - 20110218)
- MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE

- item 24 (Character of Service) – Bad Conduct
- item 25 (Separation Authority) – Army Regulation 635-200, Chapter 3
- item 26 (Separation Code) – JJD
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – Court-Martial, Other
- item 29 (Dates of Time Lost During This Period) – 20090425 – 20090427; 20090502 – 20090504; 20090512 – 20090608; 20090616 – 20090619; 20090724 - 20090911

i. Lost Time / Mode of Return:

- AWOL, 25 April 2009 – 27 April 2009 / NIF
- AWOL, 2 May 2009 – 4 May 2009 / NIF
- AWOL, 12 May 2009 – 8 June 2009 / NIF
- AWOL, 16 June 2009 – 19 June 2009 / NIF
- AWOL, 24 July 2009 – 11 September 2009 / Apprehended by Civil Authorities

j. Behavioral Health Condition(s): The following documents have been provided to the ARBA Medical Advisor. See “Board Discussion and Determination” for Medical Advisor Details.

(1) Applicant provided: On 9 September 2022 the Army Review Boards Agency requested the applicant provide their medical documents to support their mental health issues (PTSD, anxiety and depression), as of this date there has been no response.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 214
- 3rd Party Character Reference

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, Title 10, U.S. Code, Section 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) 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; Title 10, U.S. Code, Section 1553; and DoD Directive 1332.41 and DoD Instruction 1332.28.

f. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 19 December 2016, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

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

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

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

(4) An Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(5) A Bad Conduct discharge will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a Bad Conduct Discharge. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD. The appellate review must be completed, and the affirmed sentence ordered duly executed.

(6) Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances; however, in which the conduct or performance of duty reflects by a single incident provides the basis for characterization.

(7) Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis. 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 "JJD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 3, paragraph 3-11 (Bad Conduct Discharge)

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 DoD 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 waivable and nonwaivable 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 waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable 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, United States (2008 Edition) stated, 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 order and discipline in the Armed Forces.

(a) Section 871, Article 71 (Execution of Sentence; Suspension of Sentence), stated if a sentence extends to death, dismissal, or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn, that part of the sentence extending to death, dismissal, or a dishonorable or bad conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to legality of the proceedings is final in such cases when review is completed by a Court of Military Review and the review is completed in accordance with the judgment of the Court of Military Appeals.

(b) Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the Article 86 (AWOL) and Article 112a (Wrongful Use, Possession, etc., of Controlled Substances).

j. Title 10, U.S. Code, section 1552(f), provides that the Secretary of a Military Department may correct any military record of the Secretary's Department when the Secretary considers it necessary to correct an error or remove an injustice. With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under the UCMJ, action to correct any military record of the Secretary's Department may extend only to

correction of a record to reflect actions taken by reviewing authorities under the UCMJ or action on the sentence of a court-martial for purposes of clemency. Such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that Military Department.

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 applicant's AMHRR indicates the applicant was adjudged guilty by a court-martial and their sentence was approved by the convening authority. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. The DD Form 214 provides the applicant was discharged with a character of service of Bad Conduct, with the narrative reason for separation as "Court-Martial, Other." They completed 5 years, 3 months, and 21 days of net active service this period and did not complete their first term of service of their 3-year, 24-week enlistment obligation.

c. The Board is empowered to change the discharge only if clemency is determined to be appropriate. Clemency is an act of mercy, or instance of leniency, to moderate the severity of the punishment imposed.

d. Chapter 3, paragraph 3-11 (Bad Conduct Discharge) stated a Soldier will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed.

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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Unspecified Psychoactive Substance Abuse, Adjustment Disorder with depressed mood, applicant asserted PTSD/Anxiety/Depression.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant had in-service mental health records associated with discharge or self-asserted.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there are no mitigating BH conditions. While the applicant did report symptoms associated with depression, PTSD, and anxiety and was diagnosed with an Adjustment Disorder, these symptoms were reported as secondary to positive drug tests, legal problems, and marital difficulties. There was

no indication of any service-related traumatic experience or mental health condition that would mitigate misconduct.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's Adjustment Disorder with depressed mood, applicant asserted PTSD/Anxiety/Depression outweighed the basis for applicant's separation for the aforementioned reason(s).

b. Prior Decisions Cited: N/A

c. Response to Contention(s):

(1) The applicant contends they understand they made mistakes in their life and have lived with the outcome. They are trying to better their life and they know if they could receive a better discharge, it would allow a lot of new doors to open for their future. The Board considered this contention and voted that relief was warranted based on the applicant's length and quality of service, to include overseas service, harshness, and clemency based on the length of time since discharge.

(2) The applicant contends they are asking for relief so they can receive medical, dental and other benefits for their family and them. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(3) The applicant contends they hope to use these benefits to help with their living situation, their PTSD, anxiety/depression and to help get a better job/career. The Board considered this contention and the applicant's assertion of PTSD/Anxiety/Depression, however the Board determined that there is insufficient evidence of said diagnoses in official or medical records, and the applicant did not provide supporting documentation by a qualified medical professional to provide merit to the claim. Ultimately, the Board determined that the assertion alone was insufficient to warrant further relief.

d. The Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include overseas service, harshness, and clemency based on the length of time since 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 the applicant's length and quality of service, to include overseas service, harshness, and clemency based on the length of time since discharge. 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, 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:** 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:

12/10/2025



Legend:

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

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

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

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