

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 22 April 2020
- b. **Date Received:** 23 June 2022
- c. **Counsel:** None

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

a. **Applicant's Requests and Issues:** 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).

b. The applicant seeks relief contending, in effect, the applicant's service in the Army from 29 May 2002 until they went absent without leave (AWOL) on 1 March 2005 was honest and honorable. The applicant served almost a year in Iraq, during this deployment the applicant's right knee was injured, the applicant was shot at, and saw the enemy killed and was in fear of their own life. This is captured in the applicant's Post-Deployment Health Assessment, 10 March 2004. While in Iraq, the applicant was directed to continue their duties even though they shredded their anterior cruciate ligament (ACL) and the torn meniscus in their right knee caused them great discomfort and pain. The applicant was the only Native American in the company, the applicant was ostracized, and given more patrol assignments because of their race. The applicant did not complain and always did their best for the company. Within a month of returning from Iraq the applicant enrolled in a substance abuse program due to PTSD. In June 2004, the applicant had surgery on their right knee after they returned from Iraq to repair the ACL and torn meniscus. During the time the applicant was AWOL, they sought help for mental health on 15 March 2012 and was diagnosed with PTSD. There was not a mental health program in the Army to take care of the applicant at that time. The applicant would like the Board to take into consideration the above factors in determining that there were compelling circumstances to warrant the prolonged unauthorized absence per 38 Code of Federal Regulations (CFR) 3.12 (Character of Discharge). It states length and character of service exclusive of the period of prolonged AWOL. Service exclusive of the period of prolonged AWOL should generally be of such quality and length that it can be characterized as honest, faithful and meritorious and of benefit to the Nation.

c. **Board Type and Decision:** In a records review conducted on 1 March 2024, and by a 4-1 vote, the Board determined the discharge is inequitable based on the applicant's diagnosis of anxiety symptoms secondary to combat service and the applicant's combat service mitigate the basis of separation (AWOL). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3. *Please see Section 9 of this document 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 / AR 635-200, Chapter 10 / KFS / RE-4 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 10 September 2014

c. Separation Facts:**(1) Date and Charges Preferred (DD Form 458, Charge Sheet):**

(a) On 15 April 2005, the applicant was charged with violating Article 86, Uniform Code of Military Justice (UCMJ), for being AWOL from on or about 1 March 2005 and remained absent until on or about 1 April 2005.

(b) On 4 August 2014, the applicant was charged with violating Article 85, UCMJ, for without authority and with intent to remain away therefrom permanently, absent themselves from the unit on or about 1 March 2005, and remained absent in desertion until the applicant was apprehended on or about 29 June 2014.

(1) Legal Consultation Date: 4 August 2014

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

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Separation Decision Date / Characterization: 26 August 2014 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 29 May 2002/ 4 years

b. Age at Enlistment / Education / GT Score: 19 / High School Graduate / 115

c. Highest Grade Achieved / MOS / Total Service: E-3 / 13B10, Cannon Crewmember / 2 years, 9 months, and 10 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (28 February 2003 - 14 February 2004)

f. Awards and Decorations: NDSM, GWOTEM, GWOTSM, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 1 March 2005, the applicant's duty status changed from present for duty (PDY) to AWOL, effective 1 March 2005.

(2) On 1 April 2005, the applicant's duty status changed from AWOL to dropped from rolls (DFR), effective 1 April 2005 and was considered a deserter.

(3) Charge Sheet, 15 April 2005, shows the applicant was charged with violating Article 86, UCMJ, for being AWOL from on or about 1 March 2005 and remained absent until on or about 1 April 2005.

(4) While away from the Army, the applicant attended college as an undergraduate. The professor for the elementary education class speaks highly of the applicant and how well the applicant was doing in college.

(5) Charge Sheet, 4 August 2014, shows the applicant was charged with violating Article 85, UCMJ, for being permanently absent from on or about 1 March 2005 until the applicant was apprehended on or about 29 June 2014.

(6) Memorandum from Defense Counsel, In Support of Request for Discharge in Lieu of Trial by Court-Martial for (Applicant), 4 August 2014, states the applicant deployed to Kuwait with the 101st Airborne Division in February 2003, later taking part in Operation Iraqi Freedom (OIF-I). While part of the invasion force, the applicant and the rest of 3d Brigade participated in actions at Al Najaf and other locations. The applicant was in the immediate vicinity of the attack on Uday and Qusay Hussein's compound in July 2003. Following redeployment to Fort Campbell, the applicant claims to begin experiencing mental health problems related to PTSD. Like many other Soldiers, the applicant did not seek help for fear of being negatively stigmatized. Consequently, the applicant turned to drinking as a means to cope. This led to a drinking under the influence charge in South Dakota during a trip home on leave. Shortly thereafter, the applicant's sister died. And the applicant was unable to fully practice the religious ceremonies at Fort Campbell as the applicant was accustomed to at home. While the unit may have made some effort to reasonably accommodate the applicant, they were unable to do so to the extent necessary to conform with the applicant's religion. With all these issues occurring at or near the same time; the applicant simply left Fort Campbell and remained at home to deal with the applicant's problems. Since the applicant's departure from Fort Campbell, the applicant has nearly finished a degree in Elementary Education at the Oglala Lakota College in Kyle, South Dakota. The applicant also has five children born and married.

(7) On 14 August 2014, the applicant's duty status changed from DFR to PDY, effective 18 July 2014.

(8) On 14 August 2014, the applicant's duty status changed from PDY to Confined by Civil Authorities (CCA), effective 19 July 2014.

(9) On 25 August 2014, the Staff Judge Advocate recommended the applicant's request for discharge be approved with an under other than honorable conditions characterization of service. The applicant has alleged the influence of PTSD based on service while deployed in support of combat operations. However, in accordance with Title 10, United States Code, Sections 1145 and 1177, and ALARACT 262/2013, an examination of the Soldier for factors related to PTSD and TBI is not required as the Soldier has not deployed in support of contingency operations within the last 24 months.

(10) On 14 August 2014, the applicant's duty status changed from CCA to PDY, effective 28 August 2014.

(11) The applicant's Enlisted Record Brief, 11 September 2014, reflects the applicant was flagged for adverse action (AA), effective 19 July 2014; was ineligible for reenlistment due to an adverse action flag (9B). The Assignment Eligibility Availability (AEA) code shows AEA code "L" which has no assignment restrictions.

(12) The applicant's DD Form 214, reflects the applicant had not completed the first full term of service. The applicant was discharged on 10 September 2014 under the authority of AR 635-200, chapter 10, with a narrative reason of in lieu of trial by court-martial and an under other than honorable conditions characterization of service. The DD Form 214 was not authenticated

with the applicant's electronic signature. The applicant was reduced from E-2 to E-1 effective 26 August 2014.

i. Lost Time / Mode of Return: 9 years, 5 months, 27 days (AWOL, 1 March 2005 - 27 August 2014) / Apprehended by Civil Authorities

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed:

(a) Medical Record shows the applicant was seen at Behavioral Health, Wanblee Health Center on 11 June 2013. The applicant started having more PTSD flashbacks because of concerns of their mother's condition. The applicant wanted to restart taking Seroquel because it helped the applicant's mood, better sleep, and prevented dreams. A mental status examination shows the applicant's appearance, behavior, and speech was normal. The applicant was anxious, blunted, and had decreased sleep, appetite, and concentration. And the applicant had lack of pleasure in acts that were normally pleasurable.

(b) Medical Record shows the applicant was seen at Behavioral Health, Wanblee Health Center on 30 July 2013 for medication refills. The Seroquel helped the application sleep better and was not having flashbacks.

(c) Medical Record shows the applicant was seen at Wanblee Health Care Clinic on 18 February 2014 for their chronic right knee and right shoulder pain. Active problems shows PTSD, other and unspecified alcohol dependence, episodic, old disruption of ACL right knee pain, and right shoulder arthropathy.

(d) Medical Record shows the applicant was seen at Wanblee Health Care Clinic on 24 March 2014 for anxiety related to PTSD and bladder pain. Relevant past medical history/active problems were old disruption of ACL right knee, other and unspecified alcohol dependence, episodic, arthropathy right shoulder, and PTSD.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293; DD Form 214.

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. Section 1177, Title 10, United States Code (Members diagnosed with or reasonably asserting post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation), states under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure that a member of the armed forces under the jurisdiction of the Secretary who has been deployed overseas in support of a contingency operation during the previous 24 months, and who is diagnosed by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advanced practice registered nurse as experiencing PTSD or TBI or who otherwise reasonably alleges, based on the service of the member while deployed, the influence of such a condition, receives a medical examination to evaluate a diagnosis of PTSD or TBI.

d. 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.

e. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

(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 discharge request may be submitted after the charges had been preferred against the Soldier. 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 data 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) The Soldier's written request will also include an acknowledgment that they understand the elements of the offense(s) charged and is guilty of the charge(s) or of a lesser included offense(s) therein contained which also authorizes the imposition of a punitive discharge. A Soldier may waive consultation with counsel, however, they consulted with Counsel, consulting counsel will sign as a witness.

(d) A medical examination is not required but may be requested by the Soldier under AR 40–501, chapter 8.

(e) 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. (See chap 3, sec II.)

(f) 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.

(5) 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.

f. 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.

g. 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 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.

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 general (under honorable conditions). The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's DD Form 214 shows the applicant served 2 years, 9 months, and 15 days during which the applicant served 11 months and 17 days serving in Iraq. A Charge Sheet shows the applicant was AWOL from 1 March 2005 until 29 June 2014 (9 years, 5 months, 27 days). On 4 August 2014, the applicant voluntarily requested a discharge In Lieu of Trial by Court-Martial. A DD Form 214 shows on 10 September 2014 they were discharged accordingly under the provisions of AR 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.

c. The applicant contends, in effect, the applicant's service in the Army from 29 May 2002 until they went AWOL on 1 March 2005 was honest and honorable. The applicant requests the Board to take into consideration their injuries, mental health, and treatment by the unit in determining that there were compelling circumstances to warrant the prolonged unauthorized absence per 38 CFR 3.12 (Character of Discharge). Per 38 CFR 3.12, it states length and character of service exclusive of the period of prolonged AWOL. Service exclusive of the period of prolonged AWOL should generally be of such quality and length that it can be characterized as honest, faithful and meritorious and of benefit to the Nation. Analyst notes the criteria used by the VA in determining whether a former servicemember is eligible for benefits are different than used by the Army when determining a member's discharge. The applicant's AMHRR contains medical records from Wanblee Health Care Clinic dated 18 February 2014 and 24 March 2014 that shows the applicant had active problems for PTSD, other and unspecified alcohol dependence, episodic, old disruption of ACL right knee pain, and right shoulder arthropathy. Also, a medical record showing the applicant was seen at Behavioral Health, Wanblee Health Center on 11 June 2013 states the applicant started having more PTSD flashbacks because of concerns of their mother's condition. The applicant wanted to restart taking Seroquel because it helped the applicant's mood, better sleep, and prevented dreams. A mental status examination shows the applicant's appearance, behavior, and speech was normal. The applicant was anxious, blunted, and had decreased sleep, appetite, and concentration. And the applicant had lack of pleasure in acts that were normally pleasurable. The AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

d. The applicant contends, in effect, the applicant served almost a year in Iraq, during this deployment the applicant's right knee was injured, the applicant was shot at, and saw the enemy killed and was in fear of their own life which is captured in the applicant's Post-Deployment Health Assessment, 10 March 2004. The applicant provided their DD Form 214 showing their deployment to Iraq from 28 February 2003 - 14 February 2004. The applicant's AMHRR contains a medical record that shows the applicant was seen at Wanblee Health Care Clinic on 18 February 2014 for chronic right knee and right shoulder pain. Active problems listed are old disruption of ACL right knee, other and unspecified alcohol dependence, episodic, arthropathy right shoulder, and PTSD.

e. The applicant contends, in effect, the applicant was the only Native American in the company, the applicant was ostracized, and given more patrol assignments because of their race. The applicant did not provide evidence and the applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

f. The applicant contends, in effect, within a month of returning from Iraq the applicant enrolled in a substance abuse program due to PTSD. The applicant did not submit any evidence, other than the applicant's statement, to support the contention that the applicant was

enrolled in a substance abuse program. The applicant's AMHRR contains medical records from Wanblee Health Care Clinic dated 18 February 2014 and 24 March 2014 that shows the applicant had active problems for other and unspecified alcohol dependence and PTSD.

g. The applicant contends, in effect, during the time the applicant was AWOL, they sought help for mental health on 15 March 2012 and was diagnosed with PTSD. The applicant did not submit medical evidence for seeking help for mental health on 15 March 2012. The applicant's AMHRR contains medical records from Wanblee Health Care Clinic dated 18 February 2014 and 24 March 2014 that shows the applicant had active problems for other and unspecified alcohol dependence, episodic and PTSD.

h. AR 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. A medical and mental examination was not required for a voluntary request In Lieu of Trial by Court-Martial but could have been requested by the service member. The applicant's AMHRR is void of evidence indicating whether the applicant requested either examination.

i. 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, 8 years after going AWOL, but while still active duty, a primary care provider listed PTSD based on self-report.

(2) Did the condition exist or experience occur during military service? **Yes.** 8 years after going AWOL, but while still active duty, a primary care provider listed PTSD based on self-report.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given the primary care diagnosis of PTSD and the possibility there were anxiety symptoms secondary to combat in-service irrespective of meeting full criteria, the basis is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's self-reported PTSD outweighed the AWOL basis for separation for the aforementioned reason(s).

b. Response to Contention(s):

(1) The applicant contends, in effect, the applicant's service in the Army from 29 May 2002 until they went AWOL on 1 March 2005 was honest and honorable. The applicant requests the Board to take into consideration their injuries, mental health, and treatment by the unit in determining that there were compelling circumstances to warrant the prolonged unauthorized absence per 38 Code of Federal Regulations 3.12 (Character of Discharge). It states length and character of service exclusive of the period of prolonged AWOL. Service exclusive of the period of prolonged AWOL should generally be of such quality and length that it can be characterized as honest, faithful and meritorious and of benefit to the Nation. The Board considered this contention and voted to grant relief in the form of an upgrade.

(2) The applicant contends, in effect, the applicant served almost a year in Iraq, during this deployment the applicant's right knee was injured, the applicant was shot at, and saw the enemy killed and was in fear of their own life which is captured in the applicant's Post-Deployment Health Assessment, 10 March 2004. The Board considered this contention and voted to grant relief in the form of an upgrade.

(3) The applicant contends, in effect, the applicant was the only Native American in the company, the applicant was ostracized, and given more patrol assignments because of their race. The Board considered this contention and found no corroborating evidence of capricious or malicious acts by the chain of command, however, in deference to the applicant's service, combat deployment and self-reported PTSD, they voted to grant relief in the form of an upgrade.

(4) The applicant contends, in effect, within a month of returning from Iraq the applicant enrolled in a substance abuse program due to PTSD. The Board considered this contention and voted to grant relief in the form of an upgrade.

(5) The applicant contends, in effect, during the time the applicant was AWOL, they sought help for mental health on 15 March 2012 and was diagnosed with PTSD. The Board considered this contention and voted to grant relief in the form of an upgrade.

c. The Board determined the discharge is inequitable based on the applicant's diagnosis of anxiety symptoms secondary to combat service and the applicant's combat service mitigate the basis of separation (AWOL). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable based on the applicant's diagnosis of anxiety symptoms secondary to combat service and the applicant's combat service mitigate the basis of separation (AWOL). Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(3) The Board voted to change the RE code to RE-3.

10. BOARD ACTION DIRECTED:

a. Issue a New DD-214: Yes

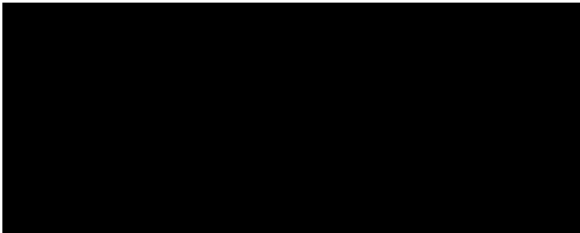
ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20220005483

- b. Change Characterization to: Honorable**
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN**
- d. Change RE Code to: RE-3**
- e. Change Authority to: AR 635-200**

Authenticating Official:

4/3/2024



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