

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 28 February 2022
- b. **Date Received:** 7 March 2022
- c. **Counsel:** None

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

a. **Applicant Requests:** The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade to general (under honorable conditions), a Separation Program Designator (SPD) change, a reentry code change, and a narrative reason change.

b. **Applicant Contention(s)/Issue(s):** The applicant requests relief contending, in effect, self-medicating started in Afghanistan. The applicant was unaware of they were suffering from mental health issues. The applicant made some changes for the better.

c. **Board Type and Decision:** In a records review conducted on 16 October 2025, and by a 4-1 vote, the Board determined that the characterization of service was inequitable based on the applicant's length to include combat service. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General Under Honorable Conditions. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 12 January 2011

c. Separation Facts:

(1) **Date and Charges Preferred / DD Form 458 (Charge Sheet):** On 16 December 2010, the applicant was charged with:

(a) Charge I: Violating Article 91, UCMJ: the applicant on or about 15 October 2010 was disrespectful in language toward SSG B.B., a noncommissioned officer.

(b) Charge II: Violating Article 95, UCMJ, on or about 15 October 2010 the applicant resisted being apprehended by an armed force policeman, a person authorized to apprehend the applicant.

(c) Charge III: Violating Article 121, UCMJ, the applicant on or about 31 October 2010, stole a pocketknife of a value less than \$500, the property of D.P.

(d) Charge IV: Violating Article 128, UCMJ:

- Specification 1: the applicant on or about 31 October 2010 unlawfully did strike N.B. in the face with a closed fist.

- Specification 2: the applicant on or about 31 October 2010 unlawfully did strike D.P. in the face with a closed fist.

(e) Charge V: Violating Article 134, UCMJ, the applicant on or about 15 October 2010 was drunk and disorderly, which was of a nature to bring discredit upon the armed forces.

(2) Legal Consultation Date: 16 December 2010

(3) 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.

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

(5) Separation Approval Decision Date / Characterization: 6 January 2011 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment Under Review: 25 September 2008 / 4 years

b. Age at Enlistment / Education / GT Score: 20 / High School Graduate / 92

c. Highest Grade Achieved / MOS / Total Service: E-3 / 11B1O, Infantryman / 1 year, 10 months, 6 days

d. Prior Service / Characterizations: ARNG, 7 March 2008 – 24 September 2008
IADT, 24 September 2008 – 21 January 2009
(Concurrent Service)

e. Overseas Service / Combat Service: Germany / Afghanistan (June 2010 – October 2010) / The applicant's AMHRR reflects in the case separation files the applicant deployed.

f. Awards and Decorations: NDSM, GWOTSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Department of the Army Seventh U.S. Army Joint Multinational Training Command, subject: Bar Letter, reflects the applicant was permanently barred from entry onto all U.S. government controlled property and facilities under the jurisdiction of the Commanding General, U.S. Army Europe. The bar began the date of discharge.

(2) Military Police Report, 15 October 2010, reflects the police responded to a call on 15 October 2010, at 16:40 regarding an intoxicated individual attempting to enter a residence at Eisenhowerstrasse 34. Upon arrival, the resident stated no one attempted to break in. Officers then found the applicant sitting in front of Eisenhowerstrasse 43 with removed window screens and an empty vodka bottle nearby. The applicant became uncooperative and disorderly, resisting arrest and using disrespectful language towards SSG B. During transport, the

applicant repeatedly banged head against the plexiglass divider. At the station, the applicant's Intoxilyzer test read 0.222 G/ML. Due to intoxication, police did not question the applicant but processed and released the applicant to unit. The applicant later returned on 20 October 2010, invoked legal rights, and police again processed and released the applicant to unit.

(3) Intoxilyzer Alcohol Analyzer, 15 October 2010, reflects the applicant test resulted in a .225 blood alcohol content.

(4) Military Police Report, 31 October 2010, reflects on 31 October 2010, at 0130 HRS, an assault and larceny occurred. The applicant struck P. with a closed fist to the left eye after a verbal altercation regarding P's knife, which the applicant possessed. P. sustained a swollen and bruised left eye and was treated at Sulzbach-Rosenberg Hospital. The applicant was apprehended and a breath alcohol test at 0138 HRS showed a result of .155 G/100ML. Military police did not advise the applicant of legal rights due to intoxication. On 1 November 2010, P. provided a written sworn statement, confirming the altercation began when P confronted the applicant about the knife, which L. also observed in the applicant's pocket. The applicant was advised of legal rights at 1111 HRS and invoked them. On 2 November 2010, L. corroborated the account. The applicant had a history of previous offenses, including assault consummated by a battery in August 2009 and March 2010, and drunk and disorderly conduct and disrespect to an NCO in October 2010. A Commander's Report of Corrective Action Taken (DA FORM 4833) was be forwarded.

(5) Three Intoxilyzer Alcohol Analyzer test results, 31 October 2010, reflects the applicant had a BAC of .160.

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

j. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See "**Board Discussion and Determination**" for Medical Advisor Details.

(1) **Applicant provided:** Certificate of Completion, 15 June 2016, reflects the applicant completed six hours of Anger Management.

(2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty; Adult and Teen Challenge letter; five Adult and Teen Challenge certificates; Anger Management certificate.

6. POST SERVICE ACCOMPLISHMENTS: The applicant completed anger management and volunteered in the community.

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. 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; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

f. Army Regulation 601-210, Regular Army, and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

- 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.
- 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.
- 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.

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

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation. It states:

(a) 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.

(b) 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.

(c) An under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

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

conditions discharge was normally considered appropriate, unless the record was so meritorious it would warrant an honorable.

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

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

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

(c) Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8.

(2) Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu Trial by Court-Martial.

8. SUMMARY OF FACT(S): Standard of Review. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

a. The applicant requests an upgrade to honorable, an SPD code change, a reentry code change and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. In consultation with legal counsel, the applicant voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance.

c. The applicant contends the Army should change the narrative reason for the discharge. Under Chapter 10, of AR 635-200, the Army separated the applicant with an "under other than honorable conditions" discharge. Army Regulations designate "In Lieu of Trial by Court-Martial," as the narrative reason for discharge under this provision and assign the separation code "KFS." Army Regulation 635-8 (Separation Processing and Documents) governs how officials prepare the DD Form 214. This regulation mandates that block 28 must list the narrative reason

for separation, and block 26 must show the corresponding separation code, both as specified in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation prohibits any deviation and does not allow officials to enter any other reason.

d. The applicant contends the Army should change the Separation Program Designator (SPD) code. The SPD codes are three-character alphabetic combinations identifying reasons for and types of separation from active duty. The primary purpose of SPD codes is to provide a statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in collecting and analyzing separation data. The Office of the Secretary of Defense controls SPD codes and implements them in Army policy AR 635-5-1 to track types of separations. The SPD code specified by Army Regulations for a discharge under Chapter 10 is "KFS."

e. The applicant requests a reentry code change. Soldiers receive reentry codes during separation based on service records or discharge reasons. Army Regulation 601-210 assigns the applicant an RE code of "4," which is appropriate under the circumstances. An RE code of "4" remains ineligible for waiver, preventing reenlistment.

f. The applicant contends self-medicating started in Afghanistan because of unawareness of mental health problems. The applicant provided no supporting evidence beyond their statement to support the contention. The applicant's AMHRR includes no documentation of a PTSD diagnosis. The ARBA sent a letter to the applicant at the address in the application on 19 September 2022 requesting documentation to support a PTSD diagnosis but received no response from the applicant.

g. The applicant contends making some changes for the better. The Army Discharge Review Board has the authority to consider post-service factors when reviewing discharge recharacterization requests. However, no law or regulation permits upgrading an unfavorable discharge solely due to time passed or good conduct in civilian life. The Board evaluates each case individually to determine whether post-service achievements indicate previous in-service misconduct was an anomaly rather than a reflection of the applicant's overall character.

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 asserts experiencing mental health conditions including PTSD, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

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

(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 is insufficient evidence beyond self-report the applicant was experiencing a mental health condition including PTSD during his active service. While using alcohol for self-medication can be a natural sequelae to some mental health conditions including PTSD, the presence of misconduct is not sufficient evidence of the presence of a mitigating mental health conditions or experience during

active service. In addition, there is no nexus between the applicant's reported mental health conditions including PTSD and the misconduct of assault and theft. In that, the applicant's reported mental health conditions including PTSD do not interfere with the ability to distinguish between right and wrong and act in accordance with the right.

(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 had a condition to outweigh the reason for discharge.

b. Prior Decisions Cited: **NA**

c. Response to Contentions:

(1) The applicant contends the Army should change the narrative reason and accompanying SPD code for the discharge. The Board considered this contention and determined that the narrative reason for discharge was discharged was both proper and equitable, therefore a change is not warranted.

(2) The applicant requests a reentry code change. The Board considered this contention and determined that the narrative reason for discharge was discharged was both proper and equitable, therefore a change is not warranted.

(3) The applicant contends self-medicating started in Afghanistan because of unawareness of mental health problems. The Board considered this contention along with the totality of the applicant's records and determined the applicant conduct fell below honorable conduct.

(4) The applicant contends making some changes for the better. The Board considered this contention during proceedings.

d. The Board determined that the characterization of service was inequitable based on the applicant's length to include combat service. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General Under Honorable Conditions. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them. However, the applicant may request a personal appearance hearing to address further 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) 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 carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, and combat. While there is no medical mitigation for the basis of separation, the Board based on liberal consideration applied clemency and determined this

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20220006133

warrants a change in the character to General (Under Honorable Conditions). The Board determined the Authority, Separation and Narrative Reason & RE Code was proper and equitable and voted not to change them.

(3) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and 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:

10/23/2025



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
FTR – Failure to Report

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

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

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