

1. Applicant's Name: [REDACTED]**a. Application Date:** 21 April 2022**b. Date Received:** 27 April 2022**c. Counsel:** [REDACTED]**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 honorable and a narrative reason change.

The applicant seeks relief contending, in effect, the command made an error in discretion.

b. Board Type and Decision: In a telephonic personal appearance hearing conducted on 8 January 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length of service, elapsed time since the misconduct occurred, and post service accomplishments. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General, Under Honorable Conditions.

Please see Section 10 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: NIF / AR 135-178 / Under Other Than Honorable Conditions

b. Date of Discharge: 19 December 2012

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** NIF

(2) **Basis for Separation:** The applicant was informed of the following reasons: NIF

(3) **Recommended Characterization:** NIF

(4) **Legal Consultation Date:** NIF

(5) **Administrative Separation Board:** NIF

(6) **Separation Decision Date/ Characterization:** NIF

4. DISCHARGE DETAILS:

a. Date / Period of Enlistment: 28 December 2006 / 8 years

b. Age at Enlistment / Education / GT Score: 18 / NIF / NIF

c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 92A, Automated Logistical Specialist / NIF

d. **Prior Service / Characterizations:** RA, 18 January 2007 – 14 June 2007 HD (IADT)
(Concurrent Service)

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

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

g. **Performance Ratings:** NA

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

i. **Lost Time / Mode of Return:** NIF

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

(1) **Applicant provided:** NIF

(2) **AMHRR Listed:** NIF

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293

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), dated 25 September 2019, 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 prescribes 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 of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) Paragraph 2-9a prescribes an honorable characterization 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) Paragraph 2-9b, prescribes, if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as general (under honorable conditions). Characterization of service as general (under honorable conditions) is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

(3) Paragraph 2-9c, prescribes the service may be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, unsatisfactory participation, or security reasons, and under other circumstances.

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

The applicant requests an upgrade to honorable 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.

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 12-347-00008, 12 December 2012. The orders indicate the applicant was discharged effective 19 December 2012, under the provisions of AR 135-178, with a characterization of service of under other than honorable conditions.

The applicant requested a narrative reason change. When Soldiers are discharged from the U.S. Army Reserve, orders are published indicating the effective date and characterization of the discharge. Narrative reasons are normally not included in the order. The applicant's discharge order does not include these elements.

The applicant contends, in effect, the command made an error in discretion. It is unknown if these contentions have merit because the facts and circumstances leading to the applicant's discharge from the USAR are unknown. The burden of proof remains with the applicant to provide the appropriate documents such as the discharge packet or other evidence sufficient to explain the facts, circumstances, and reasons underlying the separation action, for the Board's consideration because they are not in the available record.

9. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE: In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

a. **The applicant submitted the following additional document(s):** N/A

b. **The applicant presented the following additional contention(s):** The applicant (Mr. [REDACTED] counsel), and counsel provided oral arguments in support of the contentions they provided in their written submissions and in support of their documentary evidence.

c. **Counsel / Witness(es) / Observer(s):** [REDACTED]

10. 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: In-service diagnoses of Adjustment Disorder and Panic Disorder five years prior to separation secondary to relational issues.

(2) Did the condition exist or experience occur during military service? **Yes.** In-service diagnoses of Adjustment Disorder and Panic Disorder five years prior to separation secondary to relational issues.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that symptoms secondary to relational issues resulting in 2007 previously referenced diagnoses typically do not mitigate misconduct. Furthermore, the diagnoses were five years prior to discharge and have not been service connected; the VA does not see symptoms as service related or aggravated.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder and Panic Disorder five years prior to separation secondary to relational issues outweighed the basis for applicant's separation for unsatisfactory participation for missing too many battle assemblies for the aforementioned reason(s).

b. Response to Contention(s): The applicant contends the command made an error in discretion. The Board considered this contention but found an upgrade to Honorable is not supported by the evidence of record. The Honorable characterization is appropriate when the quality of the Soldier's service generally has met the standards of accept conduct and performance of duty or is otherwise meritorious that the nature of the misconduct, Unsatisfactory Participation for missed to many battle assemblies, was not sufficiently meritorious to warrant an honorable discharge.

c. The Board determined that the characterization of service was inequitable based on the applicant's length of service, elapsed time since the misconduct occurred, and post service accomplishments. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General, Under Honorable Conditions.

d. Rationale for Decision:

(1) The Board voted to grant relief by upgrading the applicant's characterization of service to General, Under Honorable Conditions. Although the Board found the discharge proper and equitable and there were no behavioral health diagnoses which mitigated the misconduct to warrant relief, it was found that the discharge has served its purpose. Thus, making the current reason for discharge improper.

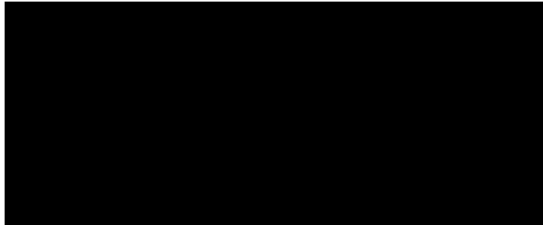
(2) As there were no Reasons/SPD Codes/RE-codes listed on the applicant's discharge paperwork, due to being in the Army Reserves, no upgrade actions are required for these items.

11. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: General, Under Honorable Conditions
- c. Change Authority to: AR 135-178

Authenticating Official:

2/15/2024



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