

**1. Applicant's Name:** [REDACTED]

- a. **Application Date:** 20 October 2020
- b. **Date Received:** 24 October 2020
- 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 under other than honorable conditions. The applicant requests an upgrade of the characterization of their service in the U.S. Army Reserve (USAR).

(2) The applicant seeks relief stating they feel like the Lupus diagnosis was the reason they were unable to perform their military duties that were required.

**b. Board Type and Decision:** In a records review conducted on 24 April 2024, and by a 4-1 vote, the Board determined that the characterization of service was inequitable based on compassionate reasons and the applicant's in-service factors (length and quality of service). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General (Under Honorable Conditions).

*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:** NIF / Army Regulation 135-178 / NIF / Under Other Than Honorable Conditions

**b. Date of Discharge:** 8 November 2010

**c. Separation Facts:** The applicant's case separation file is void from their Army Military Human Resource Record (AMHRR). On 17 February 2023 the Army Review Boards Agency requested the applicant provide their discharge packet (case separation files), as of this date there has been no response.

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 25 March 2006 / 8 years (USAR)

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

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92A1O, Automated Logistical Specialist / 4 years, 7 months, 15 days.

**d. Prior Service / Characterizations:** NA

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

f. **Awards and Decorations:** NIF

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** The Headquarters, 81st Regional Support Command Orders 10-306-00071, dated 2 November 2010, reflects the applicant was reduced in rank/grade from specialist/E-4 to private/E-1, effective 2 November 2010 and discharged from the U.S. Army Reserve with a characterization of service as Under Other Than Honorable Conditions, effective 8 November 2010.

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

j. **Behavioral Health Condition(s):** None

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Headquarters, 81st Regional Support Command Orders 10-306-00071

**6. POST SERVICE ACCOMPLISHMENTS:** none submitted with 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, 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. Multiple Department of Defense (DoD) Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans

Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

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

c. Army Regulation 15-180 (Army Discharge Review Board) sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Title 10 U.S. Code; Section 1553, DoD Directive 1332.41, and DoD Instruction 1332.28.

d. Army Regulation 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures), dated 1 March 2005, defined ARNG of the United States and USAR service obligations. It prescribed policies and procedures governing the various types of service obligations and participation requirements.

(1) Paragraph 3-3 (Satisfactory Participation of USAR Control Group Soldiers) stated Soldiers assigned to the Control Groups Annual Training have participation requirements. They are satisfactory participants if they –

- complete and promptly return all military correspondence
- promptly report any change of address to the Commander, HRC
- comply with other requirements imposed by the Commander, HRC
- report for a one day muster each year when directed by proper authority

(2) Chapter 4 (Absences) governed absences from Ready Reserve training, it applies to all Army National Guard of the United States (ARNGUS) and USAR Soldiers. Soldiers should be aware of their service obligation as assigned Soldiers of the IRR. Soldiers should further be aware of the prerequisites for satisfactory participation and the actions that may result from unsatisfactory participation. This information is provided to IRR Soldiers. Soldiers who relocate outside the United States may be transferred/reassigned to the USAR Control Group.

e. Army Regulation 135-178 (Enlisted Administrative Separations), dated 13 April 2007, set policies, standards, and procedures to ensure the readiness and competency of the U.S. Army

while providing for the orderly administrative separation of ARNGUS and USAR enlisted Soldiers for a variety of reasons.

(1) 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. When a Soldier is discharged before expiration of the service obligation for a reason for which an honorable characterization is discretionary, the following considerations apply, to include –

(a) An honorable characterization may be awarded when disqualifying entries in the Soldier's military record are outweighed by subsequent honorable and faithful service over a greater period of time during the current term of service.

(b) It is a pattern of behavior and not an isolated instance which should be considered the governing factor in determining the character of service.

(c) Unless otherwise ineligible, a Soldier may receive an honorable characterization of service if he or she has, during his or her current enlistment, or any extension thereof, received a personal decoration.

(2) A General discharge is if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as under honorable conditions. Characterization of service as general (under honorable conditions) is warranted when significant negative aspect of the Soldier's conduct or performance of duty outweighs positive aspects of the Soldier's military record.

(3) A Under Other Than Honorable Conditions Discharge, service may, but is not required to be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, homosexual conduct, unsatisfactory participation, or security reasons. The Adjutant General will direct reduction in grade to private/E-1 when the Soldier is discharged under other than honorable conditions.

(4) Chapter 12 (Misconduct) stated a Soldier may be discharged for misconduct when it is determined that the Soldier is unqualified for further military service by reason of one or more circumstances to include, paragraph 12-1c (Commission of a Serious Offense) stated commission of a serious military or civilian offense if the specific circumstances of the offense warrant discharge and a punitive discharge would be authorized for the same or a closely related offense under the Uniform Code of Military Justice (UCMJ).

(5) Paragraph 12-8 (Characterization of Service) stated characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (Under Honorable Conditions) may be warranted. For 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 inappropriate.

## **8. SUMMARY OF FACT(S):**

a. The Army Discharge Review Board considers applications for upgrade as instructed by DOD Instruction 1332.28.

b. The applicant's AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the U.S. Army Reserve. The applicant's AMHRR does

contain their discharge order from the USAR under the provisions of Army Regulation 135-178. They completed 4 years, 7 month, and 15 days service this period and completed their 8-year USAR enlistment contractual obligation.

c. Army Regulation 135-178, chapter 12 establishes policy and prescribes procedures for separation members when it is determined that the Soldier is unqualified for further military service, to include for a commission of a serious offense. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

d. The AMHRR does not provide documentation of a diagnosis of a Lupus diagnosis during the applicant's term of service nor did the applicant provide any documentation.

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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found the applicant had no mitigating behavioral health diagnoses. The applicant provided no documents or testimony of an in-service condition or experience, that, when applying liberal consideration, could have excused or mitigated a discharge.

(2) Did the condition exist, or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s): The applicant contents they feel like the Lupus diagnosis was the reason they were unable to perform their military duties that were required. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on compassionate reasons and the applicant's in-service factors (length and quality of service).

c. The Board determined the discharge is inequitable based on compassion and the applicant's in-service factors (length and quality of service). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to General (Under Honorable Conditions).

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to General (Under Honorable Conditions) based on compassionate reasons and the applicant's in-service factors (length and quality of service). Thus, the prior characterization is no longer appropriate.

(2) As there were no Reasons/SPD Codes listed on the applicant's discharge paperwork, based on the applicant's service in the Army Reserves, no upgrade actions are required for these items.

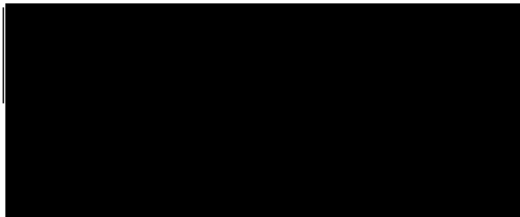
(3) As there is no RE-code listed on the applicant's discharge paperwork, based on being part of the Army Reserves, no upgrade action is required for this item.

10. BOARD ACTION DIRECTED:

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

Authenticating Official:

6/6/2024



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