

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

a. **Application Date:** 9 May 2023

b. **Date Received:** 25 May 2023

c. **Counsel:** [REDACTED]

**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 an under other than honorable conditions. The applicant requests an upgrade to honorable, change of their separation code, reentry code and the narrative reason for separation, and an appearance before the Board.

(2) The applicant, through counsel, seeks reconsideration of their prior submission in support of discharge review, dated 11 February 2020, in Army Discharge Review Board case AR20200004259, dated 20 March 2023.

(3) The applicant's exemplary overall service record and post-service conduct render other than honorable discharge inequitable under the Wilkie Memorandum and Title 32, Code of Federal Regulation (CFR), section 70.9 (Discharge Review Standards). Prejudicial errors in separation process render discharge improper and inequitable under Title 32, CFR, section 70.9. Discharge was unfair and disparate punishment under Title 32, CFR, section 70.9. After 11 years since their discharge, further punishment of other than honorable condition discharge is overly harsh and inequitable under the Wilkie Memorandum and Title 32, CFR, section 70.9. The applicant's service-connected mental health conditions mitigate discharge under the Hagel Memorandum, Kurta Memorandums and Title 32, CFR, section 70.9.

**b. Board Type and Decision:** In a telephonic personal appearance hearing conducted on 5 March 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, 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 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 / Army Regulation 635-200, Chapter 10 / KFS / RE-4 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 10 February 2012

**c. Separation Facts:**

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20230008618**

**(1) Dates and Charges Preferred (DD Form 458, Charge Sheet):** 10 November 2011 and 29 December 2011 the applicant was charged with –

**(a) Charge I – Violation of Article 86 (Absence Without Leave), Uniform Code of Military Justice (UCMJ), with two Specifications –** on or about March 2011 and on or about 7 September 2011, without authority, absent themselves from their unit and did remain so absent until on or about 9 September 2011.

**(b) Charge II – Violation of Article 92 (Failure to Obey an Order or Regulation), UCMJ, for five Specification of violating a lawful general order, to wit: Second Infantry Division Policy Letter Number 32 Leave and Pass Police, by traveling to the Philippines without authorized Pass, between on or about May 2011 through on or about September 2011.**

**(c) Charge III – Violation of Article 134 (General Article), UCMJ for three Specification for traveling to the Philippines without proper clearance or permission from their command, such conduct being prejudicial to good order and discipline in the Armed Forces and being of a nature to bring discredit upon the Armed Forces, between or about 29 April 2011 through 9 September 2011. Four Specifications for wrongfully procure a prostitute, a person not their spouse, to engage in acts of sexual intercourse with the accused in exchange for money, such conduct being prejudicial to good order and discipline in the Armed Forces and being of a nature to bring discredit upon the Armed Forces, between or about 2 March 2011 through on or about 2 September 2011.**

**(2) Legal Consultation Date:** 9 January 2012

**(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:** 13 January 2012 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 9 October 2007 / NIF

**b. Age at Enlistment / Education / GT Score:** 26 / HS Graduate / 111

**c. Highest Grade Achieved / MOS / Total Service:** E-6 / 92A2O, Automated Logistical Specialist / 7 years, 4 months, 26 days.

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Qatar (26 June 2005 – 21 December 2005), Afghanistan (28 February 2008 – 5 May 2008 and 31 May 2009 – 1 July 2009)

**f. Awards and Decorations:** AAM-4, AGCM-2, NDSM, ACM-2CS, GWTEM, GWTEM, GWTSM, KDSM, NCOPDR, ASR, OSR

**g. Performance Ratings:** 1 March 2010 – 30 November 2010 / Fully Capable  
1 December 2010 – 7 September 2011 / Among The Best

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

(1) Two DD Forms 458 (Charge Sheet) dated 10 November 2011 and 29 December 2011, reflects charges referred against the applicant described in previous paragraph 3c(1).

(2) The applicant's memorandum, subject: Request for Discharge in Lieu of Trial by Court-Martial – [Applicant], dated, 9 January 2012 reflects the applicant voluntarily requested discharge in lieu of trial by court-martial, under Army Regulation 635-200, chapter 10. They understood that they may request discharge in lieu of trial because the charges of violation of Article 86 (AWOL), UCMJ, Article 92 (Violation of Lawful General Order), UCMJ, and Article 134 (Traveling Without Proper Clearance), which has been preferred against them, which authorizes the imposition of a bad conduct or dishonorable discharge.

(a) The applicant further acknowledged they were guilty of the charges against them or a lesser one. They thereby stated that they do not desire further rehabilitation because they have no desire to perform further military service.

(b) They understood, that if their request for discharge is accepted, they may be discharged under conditions which are other than honorable and furnished an Other Than Honorable Discharge certificate. They have been advised and understood the possible effects of an Other Than Honorable Conditions discharge and that as a result of the issuance of such discharge, they will be deprived of many or all Army benefits, that they and that they may be deprived of their rights and benefits as a veteran under both Federal and State law. They understood that they will be automatically reduced to the grade of private/E-1 upon the approval of the Other Than Honorable Conditions discharge.

(3) A memorandum, Headquarters, 2nd Infantry Division, subject: Request for Discharge in Lieu of Trial by Courts-Martial, [Applicant], dated 13 January 2012, provides the separation authority approved the applicant's request for voluntary discharge with a characterization of under other than honorable conditions and reduction to the rank/grade of private/E-1. The commanding general states the court-martial charges, additional charges, and specifications are hereby withdrawn from referral to the Special Court-Martial and will be dismissed effective the date of discharge.

(4) A DD Form 2808 (Report of Medical Examination) dated 30 January 2012, reflects the examining physician marked that the applicant is qualified for service/separation. Item 77 (Summary of Defects and Diagnoses) reflects lower back pain diagnosis and a left ear condition.

(5) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 2 November 2012. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12c (Net Active Service This Period) – 7 years, 4 months, 26 days
- item 12f (Foreign Service) – 2 years, 2 months, 24 days
- item 12i (Effective Date of Pay Grade) – 13 January 2012
- item 18 (Remarks) – in part, Member has Completed First Full Term of Service
- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 25 (Separation Authority) – Army Regulation 635-200, Chapter 10
- item 26 (Separation Code) – KFS [In Lieu of Trial by Court-Martial]
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – In Lieu of Trial by Court-Martial

**(6)** A DD Form 293, dated 11 February 2020, reflects the applicant's request, through counsel to upgrade their characterization of service, change of their separation code, reentry code and the narrative reason for separation., stating –

**(a)** The applicant's exemplary overall service records and outstanding post-service conduct demonstrate that the misconduct that led to their discharge was an aberration in a long career of loyal Army service and responsible civilian life, their under other than honorable conditions discharge is inequitable under Title 32, CFR, section 70.9(c)(3).

**(b)** The applicant's separation process involved prejudicial error of discretion that violated military regulations, their under other than honorable conditions discharge is improper and inequitable, under Title 32, CFR, section 70.9(b)(1) and (c)(c3).

**(c)** The applicant's under other than honorable conditions discharge resulted from unfair and disparate punishment, measured by the standards applied to similarly situated Soldiers, that discharge is inequitable under Title 32, CFR, section 70.9(c)(2).

**(d)** The applicant has been sufficiently punished for their conduct and further punishment would be unnecessarily harsh, their discharge is now inequitable under Title 32, CFR, section 70.9(c)(3) and the Wilkie Memorandum.

**(7)** On 24 February 2023 the Army Discharge Review Board denied the request upon finding the applicant's separation was both proper and equitable. The Board determined, despite applying liberal consideration of all the evidence before the Board, the applicant's in service diagnosis of Adjustment Disorder. Post-service, the applicant is diagnosed with PTSD and Major Depressive Disorder did not excuse or mitigate the offenses of AWOL history, violating an order by traveling outside the peninsula and solicitation of prostitutes. The discharge was consistent with the procedural and substantive requirement of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

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

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

**(1) Applicant provided:** Department of Veterans Affairs (VA) letter, dated 27 July 2022, reflecting the applicant was rated 70-percent disability for Post-Traumatic Stress Disorder (PTSD).

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** None submitted in support of their petition.

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Counsel's Letter
- VA Letter

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

a. Title 10, U.S. Code, Section 1553, (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, Title 10, U.S. Code, Section 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. 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. Title 32, Code of Federal Regulations, Section 70.9 (Discharge Review Standards) provides the objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors that aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established that require automatic change or denial of a change in discharge. Neither a Discharge Review Board nor the Secretary of the Military Department concerned shall be bound by any methodology of weighting of the factors in reaching a determination. In each case, the Discharge Review Board or the Secretary of the Military Department concerned shall give full, fair, and impartial considerations to all applicable factors before reaching a decision. An applicant may not receive less favorable discharge than that issued at the time of separation. This does not preclude correction of clerical errors.

d. 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.

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 6 September 2011, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) 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) stated a Soldier who has committed an offense or offenses, the punishment for which under the UCMJ and the Manual of Courts-Martial, 2012, includes a bad conduct or dishonorable discharge, may submit a request for discharge in lieu of trial by court-martial. The Soldier's written request will include an acknowledgment that he/she understands 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.

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

**(6)** Paragraph 10-8 (Types of Discharge, Characterization of Service) stated 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. 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 improper.

**(7)** Paragraph 10-10, Limited use evidence, states due diligence should be exercised to avoid including limited use evidence in a separation action under this chapter, but the inclusion of such evidence will not form the basis for a Soldier to challenge the separation or the characterization of service. If limited use evidence is included in the separation action, the requirement that an honorable discharge be given due to the introduction of limited use evidence does not apply to separations under this chapter. The separation authority will include a statement in the approval of separation under this chapter that the inclusion of any information in the separation packet, which may be considered limited use evidence, was excluded as evidence from and not considered or used against the Soldier on the issue of characterization in accordance with DoDI 1010.01 and AR 600-85.

**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 Department of Defense Instructions 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

**(1)** RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

**(2)** RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

**(3)** RE-4 Applies to: Person separated from last period of service with a nonwaivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

**h.** Manual for Courts-Martial (2012 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good orders and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial

shows the maximum punishments include punitive discharge for violating the following, Article 86 (Absence Without Leave), Article 92 (Failure to Obey an Order or Regulation) and Article 34 (General Article).

i. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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

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

b. The evidence in the applicant's AMHRR confirms the applicant was charged with the commission of an offenses punishable under the UCMJ with a punitive charge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of Army Regulation 635-200, chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted to the offense, or a lesser included offense, and indicated an understanding a 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. The applicant completed 7 years, 4 months, and 26 days of net active service this period and completed the applicant's first full term of service; however, the applicant did not complete the applicant's contractual reenlistment service obligation of 6 years

c. Army Regulation 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.

e. The applicant's AMHRR contains no documentation of a diagnosis of PTSD or other mental health conditions during the applicant's term of service. The applicant provided VA documentation of a diagnosis of PTSD.

f. 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. 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. Applicant ( [REDACTED] ) and counsel ( [REDACTED] ) 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] (counsel) & [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: the applicant held an in-service diagnosis of Adjustment Disorder. Post-service, the applicant is service connected for combat related Post-Traumatic Stress Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant held an in-service diagnosis of Adjustment Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was not absent without leave due to avoidance or another trauma symptom. Rather, documentation clearly outlines a reoccurring, conscious and purposeful decision to travel once a month with fellow Soldiers to a specific area for recreational purposes. Documentation also outlines a conscious and purposeful choice to continue after an order was issued rationalizing, they already had tickets and accepting of consequences. Overall, documentation supports intact cognitive processes with clearly defined decisions and justification. Regarding procuring a prostitute, there is no nexus between the misconduct and diagnosed conditions.

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

b. Response to Contention(s):

(1) The applicant contends their exemplary overall service record and post-service conduct render other than honorable discharge inequitable. The Board determined that this contention was valid and voted to upgrade the characterization of service due to length and quality of service, to include combat service mitigating the applicant's Absent Without Leave, Violation of Lawful General Order, Traveling without Proper Clearance misconduct.

(2) The applicant contends prejudicial errors in their separation process render their discharge improper and inequitable. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's length and quality of service, to include combat service.

(3) The applicant contends their discharge was unfair and a disparate of punishment. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's length and quality of service, to include combat service.

(4) The applicant contends after 11 years since their discharge, further punishment of other than honorable condition discharge is overly harsh and inequitable. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's length and quality of service, to include combat service.

(5) The applicant contends their service-connected mental health conditions mitigates their discharge. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's length and quality of service, to include combat service.

c. The Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, 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.

**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) The Board voted not to change the applicant's reason for discharge or accompanying SPD code, as the reason the applicant was discharged was both proper and equitable.

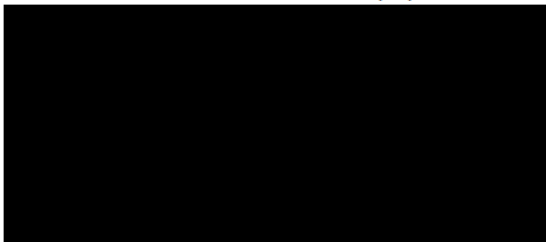
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**11. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214 / Separation Order:** 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:** AR 635-200

**Authenticating Official:**

3/20/2024



# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20230008618

**Legend:**

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

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

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

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