

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 18 July 2023
- b. **Date Received:** 18 July 2023
- c. **Counsel:** None

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

a. Applicant's Requests and Issues: The current characterization of service for the period under review is general (under honorable conditions). The applicant requests a narrative reason change.

The applicant seeks relief contending, in effect, the applicant was never counseled or allowed to enroll in a substance abuse program. The applicant was never given a separation hearing and the applicant was not provided separation orders until months after being assigned to the IRR. The applicant was informed that the proper procedure for a single failed urinalysis was not followed and the separation unjust. The applicant desire to reenlist.

b. Board Type and Decision: In a personal appearance conducted on 1 July 2024, and by a 5-0 vote, the board the discharge is inequitable because the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation, in-service mitigating factors (length of service), one-time drug use and published Department of Defense guidance for liberal consideration of discharge upgrade requests outweigh the applicant's misconduct – abuse of illegal drugs. Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to Honorable.

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: Abuse of Illegal Drugs or Alcohol / AR 135-178, Chapter 11 / NA / NA / General (Under Honorable Conditions)

b. Date of Discharge: 8 October 2021

c. Separation Facts:

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

(2) **Basis for Separation:** NIF

(3) **Recommended Characterization:** NIF

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

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

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

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 24 July 2015 / 8 years (USAR)
- b. **Age at Enlistment / Education / GT Score:** 17 / HS Graduate / 120
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 12C10, Bridge Crewmember / 6 years, 2 months, 14 days
- d. **Prior Service / Characterizations:** RA, 13 June 2016 – 11 October 2016 / HD (IADT)
(Concurrent Service)
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** NDSM, ASR, ARCOTR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** NIF
- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**
 - (1) **Applicant provided:** None
 - (2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: On-Line Application, Orders

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 sets forth the basic authority for the separation of enlisted personnel from the United States Army Reserve.

(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.

(4) Chapter 12 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 12-1b, describes a pattern of misconduct as discreditable conduct and conduct prejudicial to good order and discipline include conduct which violates the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

(6) Paragraph 12-8 states the characterization of service will normally be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted under the guidelines on chapter 2, section III.

e. Chapter 14 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memorandums. Secretarial separation authority is normally exercised on a case-by-case basis.

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

a. The applicant requests 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 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 21-275-00008, 2 October 2021, reflects the applicant was discharged under the provisions of AR 135-178, Chapter 11, due to Abuse of Illegal Drugs or Alcohol, with a characterization of service of general, under honorable conditions.

c. The applicant contending, in effect, the applicant was never counseled or allowed to enroll in a substance abuse program. Army Regulation 135-178, paragraph 2-4, entitled counseling and rehabilitation, states the separation authority may waive the rehabilitative requirements when it is determined reassignment is not feasible due to commuting distance; or Soldier would create serious disciplinary problems, hazard to the military mission, or affect unit readiness; or rehabilitation would not produce a quality Soldier. Army Regulation 600-85, paragraph 7-3 entitled voluntary (self) identification and referral, states voluntary (self) ID is the most desirable method of identifying substance use disorder. The individual whose performance, social conduct, interpersonal relations, or health becomes impaired because of

these problems has the personal obligation to seek help. Soldiers seeking self-referral for problematic substance use may access services through BH services for a SUD evaluation. The Limited Use Policy exists to encourage Soldiers to proactively seek help.

d. The applicant contends there was never a separation hearing, nor the applicant provided separation orders until months after being assigned to the IRR. The applicant's AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the Army Reserve, and there is no way to determine the circumstances surrounding the applicant's separation.

e. The applicant contends the applicant was informed the proper procedure for a single failed urinalysis was not followed and the separation unjust. The applicant's AMHRR is void of the specific facts and circumstances concerning the events which led to the discharge from the Army Reserve, and there is no way to determine the circumstances surrounding the applicant's separation.

f. The applicant desires to reenlist. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. The applicant's discharge orders do not reflect the reentry code; therefore, the applicant should contact a local recruiter to determine eligibility to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

g. Based on the applicant's narrative reason for separation listed on the separation order, it appears the chapter listed for separation is incorrect. The discharge order reflects the narrative reason for separation is "Abuse of Illegal Drugs or Alcohol." Under the provisions of AR 135-178, Chapter 12 is the correct chapter pertaining to Soldiers processed for separation for "Abuse of Illegal Drugs or Alcohol."

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):** N/A

c. **Counsel / Witness(es) / Observer(s):** N/A

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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a 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):

(1) The applicant was never counseled or allowed to enroll in a substance abuse program. The board considered this contention during proceedings and voted to grant an upgrade to honorable based on the applicant's statement, record of service, the frequency and nature of misconduct, length of service, one-time drug use and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The board determined the mitigating factors outweigh the applicant's misconduct and basis of separation (abuse of illegal drugs).

(2) The applicant contends there was never a separation hearing and the applicant was not provided separation orders until months after being assigned to the IRR. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as outlined above in paragraph 10b (1).

(3) The applicant contends the applicant was informed the proper procedure for a single failed urinalysis was not followed and the separation was unjust. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as outlined above in paragraph 10b (1).

c. The board determined the discharge is inequitable base on the applicant's statement, record of service, the frequency and nature of misconduct, length of service, one-time drug use and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The board determined the mitigating factors outweigh the applicant's misconduct and basis for separation. Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to honorable.

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization of service to honorable based on the applicant's statement, record of service, the frequency and nature of misconduct, length of service, one-time drug use and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The board determined in-service mitigating factors outweigh the applicant's basis for separation (abuse of illegal drugs). Thus, the prior characterization is no longer appropriate.

(2) As there was no SPD code or RE-code listed on the applicant's discharge paperwork due to being in the Army Reserves, no upgrade actions are required for this item.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20230009359

11. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: Honorable
- c. Change Authority to: AR 135-178, Paragraph 11-1a

Authenticating Official:

7/31/2024



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