

1. Applicant's Name: [REDACTED]

a. **Application Date:** 18 November 2023

b. **Date Received:** 18 November 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 under other than honorable conditions. The applicant requests an upgrade to general, and a narrative reason change.

The applicant states, in effect, in 2008 an in-service recruiter falsely told them if they did not reenlist, they would be recalled from the reserves and put back into active duty and sent to Iraq or Afghanistan. They decided to make the Army their career, they transferred from the Army reserves by formally reenlisting with hopes to go OCS.

They were sent to Korea and served roughly one year when their spouse told them they were going to commit suicide if they applicant did not return home, that is when they went AWOL. They have always regretted their decision, but their mental capacity was already highly diminished, and they were never able to think clearly as before because of their PTSD. Over the years their mental health became worse and in 2022 something snapped. They drove from Savannah Georgia to San Diego and then returned to Fort Carson to turn their self in for crimes they did not commit. They were hospitalized and formally diagnosed with PTSD and bipolar one. They now require daily medication to maintain their mental stability.

As a highly patriotic American and former soldier, they have always felt deep regret for not finishing their enlistment obligation. Due to their PTSD and bipolar condition, they kindly and respectfully request an upgrade to the character of their service due to being falsely mislead by an in-service recruiter when they had serious mental illnesses. They also kindly ask the board to consider that they received the PTSD during a different period of service in which they were honorably discharged.

b. **Board Type and Decision:** In a records review conducted on 6 November 2024, and by a 5-0 vote, the Board voted to grant relief in the form of an upgrade of the characterization of service to General, (Under Honorable Conditions), no change to the narrative reason for separation, separation code, or reentry code.

Please see Section 9 of this document for more detail regarding the Board's decision.

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 15 April 2009

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** N/A

(2) Basis for Separation: Pursuant to the applicant's request for voluntary discharge under provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

(3) Recommended Characterization: UOTHC

(4) Legal Consultation Date: 20 January 2009

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 24 March 2009 / UOTHC

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 8 February 2008 / 4 years

b. Age at Enlistment / Education / GT Score: 31 / Master Degree / 118

c. Highest Grade Achieved / MOS / Total Service: E-5 / NIF / 7 months, 14 days.

d. Prior Service / Characterizations: USAR; 20050421 – NIF / NIF
 ARNG; 20040604 – 20040802 / Honorable
 USAR; 20020105 – NIF / NIF
 RA; 19980105 – 20020104 / Honorable

e. Overseas Service / Combat Service: Germany, Korea

f. Awards and Decorations: KCM-2, AAM-3. AGCM, ASR, NATOMDL-2

g. Performance Ratings: NIF

h. Disciplinary Action(s) / Evidentiary Record:

(1) An Enlistment/ Reenlistment Document provides that the applicant reenlisted in the United States Army at the rank of sergeant (E-5) for a period of 4 years on 8 February 2008.

(2) A Personnel Action Document provides that the applicant's duty status changed from present for duty (PDY) to absent without leave (AWOL) on 22 September 2008. Their duty status changed from AWOL to dropped from rolls (DFR) on 22 October 2008. On 20 January 2009 the applicant's duty status changed from DFR to PDY when they surrendered to military authorities.

(3) A DD Form 458 (Charge Sheet) shows that on 20 January 2009 the applicant was charged with violating Article 86 of the Uniform Code of Military Justice (UCMJ); without authority the applicant was absent from their unit located at Camp Humphreys, Korea from 22 September 2008 – 20 January 2009.

(4) On 20 January 2009 the applicant consulted with counsel, and through counsel provided they were willing to accept an OTH discharge in lieu of a court-martial. The counsel indicated the applicant had two mitigation arguments, to justify receiving and General discharge.

- Positive prior service history
- Family hardship; Spouse's mental health

(5) An AWOL Interview Report dated 21 January 2009, provides the applicant went AWOL because of family hardship.

(6) On 22 January 2009 the applicant consulted with counsel and voluntarily requested a discharge in lieu of trial by court-martial.

(7) On 12 February 2009 the chain of command recommended approving the applicant's discharge request, with a general, under honorable characterization of service.

(8) On 22 March 2009 the applicant's request for discharge in lieu of trial by court-martial was approved by the appropriate approving authority with an Under Other than Honorable Conditions discharge characterization and reduction in rank to E-1.

(9) A Certificate of Release or Discharge from Active-Duty document indicates the applicant was discharged on 15 April 2009. The applicant's DD Form 214 provides administrative error on multiple blocks of the document, specifically the net active service for the period: 6 years, 11 months, and 13 days.

i. **Lost Time / Mode of Return:** AWOL; 20080922 – 20090120 / Surrendered to Military Control.

j. **Behavioral Health Condition(s):** Psychosis, Bipolar Disorder, Polysubstance use disorder, PTSD

(1) **Applicant provided:** Department of Veteran Affairs medical records.

(2) **AMHRR Listed:** None.

5. APPLICANT-PROVIDED EVIDENCE: An online DD Form 293 (Record Review) application, two DD Form 214 and 490 pages of medical records from the Department of Veteran Affairs.

6. POST SERVICE ACCOMPLISHMENTS: None submitted in support of their 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 635-200 (Active Duty Enlisted Administrative Separations) provides the basic authority for the separation of enlisted personnel. Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(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. When authorized, it 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. It may be issued for misconduct. In a case in which an UOTHC is authorized by regulation, a member may be awarded an honorable or general discharge, if during the current enlistment period of obligated service, they have been awarded a personal decoration or if warranted by the circumstances of a specific case.

(4) 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 data 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.

e. Chapter 15 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 memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

f. Army Regulation 630-10 (Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings) provides policies and procedures for reporting unauthorized absentees and deserters, the administering of absent without leave (AWOL) personnel and deserters, returning absentees and deserters to military control and the surrendering of military personnel to civilian law enforcement authorities.

(1) When a soldier returns from an absence that is or appears to be unauthorized, the unit commander informally investigates whether disciplinary action should be taken and if the soldier should be charged with time lost.

(2) Classification of an absence is dependent upon such factors as the following

- Orders and instructions, written and oral, the Soldier received before and during the absence.
- Age, military experience, and general intelligence of the soldier.
- Number and type of contact the soldier had with the military while absent.
- Complete or incomplete results of a court-martial decision, if any.

(3) An absence immediately following authorized leave is classified as AWOL. Should the absence subsequently be reclassified, the soldier's leave is corrected to reflect the reclassified absence, except if the absence is caused by the following:

- Mental incapacity
- Detention by civilian authorities
- Early departure of a mobile unit due to operational commitments.

g. 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.

h. 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 waiverable and nonwaiverable 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 waiverable. Eligibility: Ineligible unless a waiver is granted.
- RE-4 Applies to: Person separated from last period of service with a nonwaiverable 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.

i. Manual for Courts-Martial (2008 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued there under, 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.

- Article 86 (Absence without leave: More than 30 days) states punishment consists of a dishonorable discharge, or a bad conduct discharge, forfeiture of all pay and allowances and confinement for 1 year.

J. Army Regulation 635-5 (Separation Documents) This regulation prescribes policy and procedural guidance relating to transition management. It consolidates the policies, principles of support, and standards of service regarding processing personnel for transition and explains separation document preparation.

- “The information contained herein is subject to computer matching within the Department of Defense (DOD) or with any other affected Federal or non-Federal agency for verification purposes and to determine eligibility for, and/or continued compliance with, the requirements of a federal benefits program.”
- Enlisted Soldiers with more than one enlistment period during the time covered by this DD Form 214, enter “IMMEDIATE REENLISTMENTS THIS PERIOD” and specify inclusive dates for each period of reenlistment. For Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except “Honorable,” enter “Continuous Honorable Active Service From” (first day of service for which DD Form 214 was not issued) Until (date before commencement of current enlistment). Then, enter the specific periods of reenlistment as prescribed above.

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 an upgrade to a general. The applicant’s DD Form 214 provides they received an under other than honorable condition (UOTHC) discharge, this discharge is normally appropriate for a soldier who voluntary requests discharge in lieu of trial by court-martial, CH 10.

b. Based on the available evidence the applicant reenlisted in the Army on 8 February 2008, they served for 7 months and 14 days before they were AWOL from their unit in South Korea. The applicant was AWOL for 121 before they surrendered to military authorities at Fort Sill, Oklahoma. They were subsequently charged with violating Article 86 of the UCMJ, the applicant voluntarily requested to be discharged ILO trial by court-martial. A medical and mental examination was not required for a voluntary request ILO trial by court-martial; however, the applicant endorsed they did not desire a physical evaluation prior to separation.

c. Review of the available evidence provides administrative error in Item’s 11,12,13 and 18 of the DD Form 214 which fails to provide mandatory data required according to Army Regulation 635-8 regarding the use of the DD Form 214.

d. 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. 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.

d. 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? **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/experiences: Bipolar DO 1, manic with psychotic features; PTSD (self-assertion)

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found applicant self-asserts PTSD diagnosis occurred during active service.

(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 are no mitigating BH conditions. While applicant was on active duty, he did not require BH treatment and he was not diagnosed with any BH conditions. Fourteen years after discharge from the military, he presented to the VA in a psychotic state and was diagnosed with Bipolar DO 1, manic with psychotic features, not service-connected. VA medical documentation indicates that the applicant reported onset of his manic/psychotic symptoms one year prior, in 2021. There is no record in either his military or VA medical records of the applicant being diagnosed with PTSD. However, under liberal consideration, self-assertion of PTSD merits consideration by the board. "

(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's conditions outweighed the medically unmitigated list offenses.

b. Prior Decisions Cited: None.

c. Response to Contentions:

(1) The applicant contends they were suffering from PTSD that was caused during their first enlistment contract.

The Board considered this contention and determined there is no record in either his military or VA medical records of the applicant being diagnosed with PTSD.

(2) The applicant contends they were falsely misled by a recruiter.
The Board considered this contention non-persuasive during its deliberations.

d. The Board determined that an upgrade to the characterization of service to General, (Under Honorable Conditions) was warranted. There will be no change to the narrative reason for separation, separation code, or reentry code. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20230015314**

Correction of Military Records. 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) 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, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Quality, combat) and concurred to consider the PTSD self-assertion. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable.

(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.

10. 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:** No Change

Authenticating Official:

6/24/2025

X

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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs