

1. Applicant's Name: [REDACTED]**a. Application Date:** 9 December 2023**b. Date Received:** 14 December 2023**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 to Honorable.

(2) The applicant seeks relief contending an injustice occurred in their separation from the Army. Their discharge was due to violation of Article 112a, Uniform Code of Military Justice (UCMJ). There was not persistent misconduct. They had a lapse in judgement one time only. They ask for the Board to take into consideration the findings of the Department of Veterans Affairs (VA) as well as their awards and their service overseas during Operation Iraqi Freedom.

(3) While they were deployed to Iraq they lost one of their friends in their unit and this hit them very hard. After they returned from their deployment, they married their high school girlfriend; however, they learned later their spouse was already in a previous relationship and had been lying to them. This was the low point in their life. They now know that they were suffering from depression. They gave in to peer pressure and used drugs with two of their friends one night. They were given the option of Court-Martial and they accepted that because they wanted to stay in the Army. They were willing to accept whatever punishment they were given to stay; however, their counsel advised them to take a plea in order to get a General (Under Honorable Conditions) discharge. What happened that night is a regret they still carry with them. At that time, they didn't know to ask for help, they were young and had a terrible lapse in judgment during a very bad time in their life.

b. Board Type and Decision: In a records review conducted on 08 October 2025, and by a 5-0 vote, the Board found that the character of service the applicant received upon separation was inequitable based upon the applicant's length, quality, combat and remorse for the offenses, therefore the Board voted to upgrade the discharge to Honorable. 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. The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation. Please see Board Discussion and Determination section 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: 28 June 2011**c. Separation Facts:**

(1) Date and Charges Preferred (DD Form 458, Charge Sheet): 30 March 2011, the applicant was charged with, one Charge of Violation of Article 112a (Wrongful use of controlled substances), with Specification, in that they did, at or near Fort Hood, TX, between on or about 4 November 2010 and 8 November 2010, wrongfully use cocaine.

(2) Legal Consultation Date: 8 June 2011

(3) 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.

(4) Recommended Characterization: Under Other Than Honorable Conditions

(5) Separation Decision Date / Characterization: 9 June 2011 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 7 January 2008 / 6 years

b. Age at Enlistment / Education / GT Score: 21 / HS Diploma / 109

c. Highest Grade Achieved / MOS / Total Service: E-4 / 15D1O, Aircraft Powertrain Repairer / 3 years, 5months, 22 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (30 April 2009 – 30 April 2010)

f. Awards and Decorations: ARCOM, AAM, MUC, NDSM, GWTSM, ICM-CS, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ) dated 20 January 2011 reflects the applicant received nonjudicial punishment in that they did, at or near Fort Hood, TX, between on or about 4 November 2010 and 8 November 2010, wrongfully used cocaine, a controlled substance, in violation of Article 112a, UCMJ. The applicant demanded a trial by court-martial.

(2) A DD Form 458 (Charge Sheet) dated 30 March 2011, reflects charges referred against the applicant with one Charge in Violation of Article 112a (Wrongful use of controlled substances), with Specification, in that they did, at or near Fort Hood, TX, between on or about 4 November 2010 and 8 November 2010, wrongfully use cocaine.

(3) The applicant's memorandum, subject: Request for Discharge in Lieu of Trial by Court-Martial – United States v. [Applicant], dated 8 June 2011, 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 by court-martial because of the charges preferred against them under Article 112a, UCMJ, authorize the imposition of a bad conduct or dishonorable discharge.

(a) They are making this request of their own free will and have not been subjected to any coercion whatsoever by any person. The applicant further acknowledged they were guilty of the charge against them or a lesser one. Moreover, they thereby state that under no circumstances to they desire further rehabilitation, for they have no desire to perform further military service. Prior to completing this form, they have been afforded the opportunity to consult with appointed counsel for consultation. They have consulted with counsel for consultation who has fully advised them of the nature of their rights under the UCMJ, the elements of the offense with which they are charged.

(b) They understood, that if their request for discharge is accepted, they may be discharged under conditions which are other than honorable and if they are discharged from the service Under Other Than Honorable Conditions, they will be reduced to the lowest enlisted grade. They have been advised and understood the possible effects of an Under 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 may be ineligible for many or all benefits administered by the VA and that they may be deprived of their rights and benefits as a veteran under both Federal and State law. They may expect to encounter substantial prejudice in civilian life because of an Under Other Than Honorable Discharge.

(c) They have been advised that they may submit any statements they desire in their own behalf. The elected to submit statements on their behalf with their request. [Note: statements in the applicant's behalf are not in evidence for review.]

(4) A memorandum, Headquarters, 3rd Corps and Fort Hood, subject: Decision on Request for Discharge in Lieu of Trial by Court-Martial, dated 9 June 2011, reflects the separation authority approval of the applicant's request for discharge in Lieu of Trial by Court-Martial. The separation authority states the applicant's characterization of service is Under Other Than Honorable Conditions Discharge. In accordance with Army Regulation 600-8-19, paragraph 10-15a, the applicant will be reduced to the grade of private/E-1.

(5) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 28 June 2011. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 9 June 2011
- item 18 (Remarks) – MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 26 (Separation Code) – KFS
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – In Lieu of Trial by Court-Martial

(6) A Headquarters, 3rd Corps and Fort Hood Special Court-Martial Order Number 9, dated 10 February 2012, reflects the applicant having been arraigned, the proceedings were terminated on 25 May 2011. The applicant's request for discharge pursuant to the provisions of Army Regulation 635-200, chapter 10, was approved on 9 June 2011, for issuance of a discharge Under Other Than Honorable Conditions. The charge and specification are dismissed.

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

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

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 149 (Application for Correction of Military Records under the Provisions of Title 10, U.S. Code, Section 1552), with statement
- Excerpts of Service Record
- Separation Authority Memorandum
- DD Form 214
- Headquarters, 3rd Corps and Fort Hood Special Court-Martial Order Number 9
- two 3rd Party Character Statements
- VA Administrative Decision Letter
- National Personnel Record Center letter, with excerpt of medical documents

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, 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 (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), 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 600-20 (Army Command Policy), dated 18 March 2008, prescribed the policies and responsibilities of command, which include the Well-being of the force, military discipline, and conduct, the Army Equal Opportunity Program, and the Army Sexual Assault Victim Program. Paragraph 4-20 (Hazing) stated the Army has been and continues to be a values-based organization where everyone is encouraged to do what is right by treating others as they should be treated – with dignity and respect. Hazing is fundamentally in opposition to our values and is prohibited. Hazing is defined as any conduct whereby one military member or employee, regardless of Service or rank, unnecessarily causes another military member or employee, regardless of Service or rank, to suffer or be exposed to an activity that is cruel, abusive, oppressive, or harmful.

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 17 December 2009, 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) A 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, 2008, 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 AR 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) Chapter 15 (Secretarial Plenary Authority), currently in effect, 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 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 waiverable and nonwaiverable 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 waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) 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.

h. Manual for Courts-Martial (2008 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 Article 112a (Wrongful use of controlled substances).

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 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 They completed 3 years, 5 months and 22 days of net active service this period and did not completed their first full term of service of their 6-year enlistment obligation.

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. 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: The applicant self-asserts their misconduct was related to depression.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant self asserts that their drug use was related to depression

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that based on the available information, it is the opinion of the Agency BH advisor that there are no mitigating BH conditions. The applicant was not diagnosed with a potentially mitigatable BH condition by either the military or the VA. However, under liberal consideration, the contention that depression post deployment led to misconduct merits consideration by the board.

(4) Does the condition or experience outweigh the discharge? **No.** The condition did not outweigh the discharge. However, the Board voted to upgrade the discharge to Honorable based on the applicant's in-service factors and the applicant displayed remorse for their misconduct.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends an injustice occurred in their separation from the Army. Their discharge was due to violation of Article 112a, UCMJ. There was not persistent misconduct. They had a lapse in judgement one time only. While they were deployed to Iraq they lost one of their friends in their unit and this hit them very hard. After they returned from their deployment, they married their high school girlfriend; however, they learned later their spouse was already in a previous relationship and had been lying to them. This was the low point in their life. They now know that they were suffering from depression. They gave in to peer pressure and used drugs with two of their friends one night. What happened that night is a regret they still carry with them. At that time, they didn't know to ask for help, they were young and had a terrible lapse in judgment during a very bad time in their life. The Board reviewed the contention and discussed the contentions during deliberations.

(6) The applicant contends they ask for the Board to take into consideration the findings of the VA as well as their awards and their service overseas during Operation Iraqi Freedom. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record and thus voted to upgrade the characterization of the discharge. The Board considered the applicant's contentions during deliberations and voted to upgrade the discharge to Honorable.

d. The Board determined: Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable. The Board

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20240001024**

Members noted the applicant's length, quality, combat and remorse for the offenses and recommended an upgrade to Honorable. The applicant's in-service factors mitigated the wrongful use of cocaine. 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. The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

e. Rationale for Decision:

(1) The Board voted the character of service the applicant received upon separation was inequitable. The Board Members noted the applicant's length, quality, combat and remorse for the offenses and recommended a discharge upgrade to Honorable.

(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:** Honorable

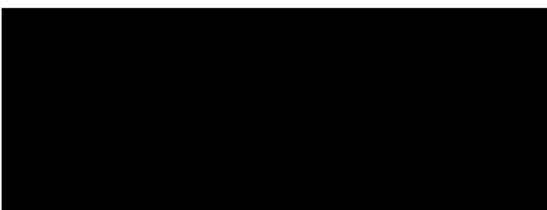
c. **Change Reason / SPD code to:** No Change

d. **Change RE Code to:** No Change

e. **Change Authority to:** No Change

Authenticating Official:

11/11/2025



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