DEPARTMENT OF THE NAVY
NAVAL DISCHARGE REVIEW BOARD (NDRB)
DISCHARGE REVIEW DECISIONAL DOCUMENT

APPLICANT'S ISSUES

[Bases for requested relief identified by Applicant.]

DISCUSSION

Date: [Type of review, Documentary/Hearing] Location: WASHINGTON, D.C. Representation:

The Naval Discharge Review Board (NDRB), under its responsibility to examine the propriety and equity of an Applicant's discharge, is authorized to change the character of service and the reason for discharge if such change is warranted. In reviewing discharges, the Board presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to rebut the presumption, to include evidence submitted by the Applicant. The Board completed a thorough review of the circumstances that led to the discharge and the discharge process to ensure the pertinent standards of equity and propriety were met.

The Applicant's record of service included: [summary of applicant's service, including administrative or criminal matters]

The NDRB reviews the propriety and equity of an Applicant's discharge individually, on a case-by-case basis. If such a review reveals an impropriety or inequity, relief is in order. Regulations permit relief on equitable grounds if the Applicant's discharge is inconsistent with standards of discipline of the Naval Service.

If mental health conditions (including PTSD, TBI) at issue, review and decisional document will include: As a result of the Applicant's claim of a mental health condition, including PTSD, TBI, or Military Sexual Trauma, and in accordance with 10 U.S.C. § 1553, the NDRB included a member who is a physician, clinical psychologist, or psychiatrist.

If military sexual trauma (MST) at issue, review and decisional document will include: Because the Applicant's claim was based in whole or in part on sexual trauma, intimate partner violence, or spousal abuse, the NDRB obtained a review by a psychiatrist, psychologist, or social worker with training on mental health issues associated with military sexual trauma.

For mental health conditions, TBI, or MST, review and decisional document will include: Additionally, and pursuant to § 1553, the NDRB reviewed the case with liberal consideration that a mental health condition, including PTSD, TBI, or Military Sexual Trauma potentially contributed to the circumstances resulting in the discharge of a lesser characterization.

Review of Kurta Factors required when applicant raises Mental Health/PTSD/TBI/MST raised as an issue:
Because the Applicant claimed mental health was a factor in their discharge, the Board reviewed the Applicant's case in accordance with 10 U.S.C. § 1553, and pursuant to the Kurta Memo and other applicable regulations and guidance, including the Wilkie Memo. Under the Kurta Memo, "[m]ental health conditions, including PTSD; sexual assault; and sexual harassment inherently affect one's behaviors and choices causing veterans to think and behave differently than might otherwise be expected." Although "[l]iberal consideration does not mandate an upgrade, [r]elief may be appropriate … for minor misconduct commonly associated with mental health conditions … and some significant misconduct sufficiently justified or outweighed by the facts and circumstances." Additionally, "substance seeking behavior and efforts to self-medicate symptoms of a mental health condition may warrant consideration." However, "[p]remeditated misconduct is not generally excused by mental health conditions, including PTSD; TBI; or by a sexual assault or sexual harassment experience." Therefore, "Review Boards will exercise caution in assessing the causal relationship between asserted conditions or experiences and premeditated misconduct." See USD (P&R) Memo, "Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment" 25 August 2017 ("Kurta Memo").

The review of discharges pursuant to the Kurta Memo and its other applicable regulations/guidance generally involves four questions: a) Did the veteran have a condition or experience that may excuse or mitigate the discharge; b) Did that condition exist/experience occur during military service; c) Does that condition or experience actually excuse or mitigate the discharge; and d) Does that condition or experience outweigh the discharge?

In this case, the Board found that: a) the Applicant did **[did not]** have a condition/experience that mitigated the discharge; b) the condition existed **[did not exist]** during military service; c) the condition/experience mitigated **[did not mitigate]** the underlying basis/misconduct for the discharge; and d) the condition/experience outweighed **[did not outweigh]** the Applicant's

assigned Discharge Characterization. Thus, the Board found the Applicant's service was [**Honorable** or/ **General (Under Honorable Conditions**)].

Note: Liberal consideration will be given to a veteran's petition for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD or TBI, and sexual assault or sexual harassment.

In the event the NDRB denies an Applicant's request for relief, the Board must, in this decision, respond to each of the Applicant's contentions, explain why the Board decided against the Applicant regarding any denied bases for relief, and describe the evidence on which the NDRB has relied in making its determination. In doing so, the Board must articulate a rational connection between facts found and conclusions drawn. ***This response must include an explanation regarding why the NDRB decided against the Applicant***, as applicable, regarding the Kurta factors detailed above. In other words, the Board must restate and answer the four Kurta Factors AND give a narrative reason why the Board finds no mitigation. **The Board must also distinguish [explain how the facts/outcome are/is different] any prior board decisions cited by the Applicant, in accordance with applicable law and regulation.**

MEDICAL BOARD MEMBER OPINION (IF APPLICABLE)

1.	Does the available record reasonably support PTSD (or other mental health condition) existed at the time of applicant's military service?	Yes/No/Not applicable/Unknown
2.	A. Were these conditions present at time of misconduct?	Yes/No/Not applicable/unknown
	B. Were these conditions mitigating for the misconduct?	Yes/No/Not Applicable/Unknown
3.	Did the applicant receive mental health and/or medical evaluations prior to their administrative separation?	Yes/No/Not Applicable/Unknown
4.	Medical board member comments:	(Use continuation sheet for additional comments as needed)

DECISION

After a thorough review of the available evidence, to include the Applicant's issues, summary of service, service/medical record entries, and discharge process, the Board found the discharge was [proper/improper]. Therefore, the awarded characterization of service shall_____, the narrative reason for separation shall [remain or change] to [reason] with a corresponding separation code of [code] and the reentry code shall [remain or change] to [code]. [Statement regarding whether or not the applicant is eligible for additional NDRB review, or not.]

RECORD OF VOTE

Board Members	**Characterization**	**Narrative Reason**	**Separation Code**	**Reentry Code**
[Name]				
Presiding Officer				
[Name]				
[Name]				
Recorder				

Recorder's Signature: _____

Presiding Officer's Signature: _____

Director's Review: _____

ADDENDUM: Information for the Applicant

Additional NDRB Reviews: After receiving a NDRB Document Review, an Applicant remains eligible for a Personal Appearance/Telephonic Hearing if the application is received by the NDRB within 15 years of the Applicant's date of discharge. The Applicant can provide documentation to support any claim(s) related to their discharge as well as evidence of post-service accomplishments. Representation at a personal appearance hearing by an Attorney (or Advocate) is recommended but not required. There are veterans organizations such as the American Legion and the Disabled American Veterans that are willing to provide guidance to former service members in their efforts to obtain a discharge upgrade. However, if you have been discharged for more than 15 years, already had a personal appearance hearing, or otherwise exhausted your opportunity to be heard by the NDRB, the Applicant may petition the Board for Correction of Naval Records (BCNR), 701 South Courthouse Road, Suite 1001, Arlington, VA 22204-2490, or http://www.secnav.navy.mil/mra/bcnr/Pages/default.aspx for further review.

Appeal Procedures on NDRB Decision: If you contest the NDRB's decision in your case AND you already contested the NDRB's previous decision at a Personal Appearance Hearing or otherwise exhausted your opportunity before the NDRB (or it has been more than 15 years since your discharge), the Applicant may petition the Board for Correction of Naval Records (BCNR), 701 South Courthouse Road, Suite 1001, Arlington, VA 22204-2490, or http://www.secnav.navy.mil/mra/bcnr/Pages/default.aspx for further review. The BCNR is the highest level of administrative review within the Department of the Navy/Marine Corps to correct errors or injustices to member's records.

Complaint Procedures on Format: If you believe the decision in your case is ambiguous, not responsive to the issues you raised, or does not otherwise comport with the decisional document requirements of DoD Instruction 1332.28, you may submit a complaint in accordance with Enclosure (5) of that Instruction to the Joint Service Review Activity (JSRA), OUSD (P&R) PI-LP, The Pentagon, Washington, DC 20301-4000. You should read Enclosure (5) of the DoD Instruction 1332.28 before submitting such a complaint. *This complaint procedure does not permit a challenge on the merits of the NDRB's decision; the JSRA is designed solely to ensure that the NDRB decisional documents meet applicable requirements for clarity and responsiveness.* Therefore, if you are contesting the merits of the NDRB's decision and already had a NDRB personal appearance hearing or otherwise exhausted your opportunities before the NDRB, the Applicant may appeal/petition the Board for Correction of Naval Records (BCNR), 701 South Courthouse Road, Suite 1001, Arlington, VA 22204-2490, or http://www.secnav.navy.mil/mra/bcnr/Pages/default.aspx for further review.

Service [VA] Benefits: The U.S. Department of Veterans Affairs (VA) determines eligibility for post-service benefits, not the NDRB. The NDRB has no authority to upgrade a discharge for the sole purpose of facilitating access to VA benefits. Regulations limit the NDRB's review solely to a determination of the propriety, equity, and clemency of a discharge. Consequently, the Applicant should petition the VA, which determines eligibility for post-service benefits. The VA conducts its own determination of eligibility based on service records and input from an Applicant upon their request. Therefore, if the NDRB grants a change to a discharge, the NDRB will notify the Commander, Navy Personnel Command or Commandant of the Marine Corps that the DD 214 be corrected as appropriate; however, it is the Applicant's responsibility to ensure these changes are incorporated into the record by the respective Service Headquarters. Further, it is the Applicant's sole responsibility to submit these changes to the VA for a determination of eligibility for VA Benefits. Finally, the Applicant should refer to the Veterans Administration website (https://www.va.gov/) for information regarding VA benefits and healthcare. Additionally, to find the nearest VA office to receive assistance with determining VA eligibility/access, the Applicant should refer to https://www.va.gov/find-locations.

Employment/Educational Opportunities: The NDRB has no authority to upgrade a discharge for the sole purpose of enhancing employment or educational opportunities. Regulations limit the NDRB's review to a determination of the propriety and equity of the discharge.

Reenlistment/RE-code: The NDRB is authorized to change a NDRB Applicant's Reenlistment Code if related to an accompanying change in discharge characterization or narrative, but this authority is strictly limited to those cases where an applicant's narrative reason or characterization of discharge is changed and that change warrants revision of the previously issued reenlistment code. Additionally, the NDRB has no authority to upgrade a discharge for the sole purpose of enhancing reenlistment opportunities. An unfavorable "RE-CODE" is, in itself, not a bar to reenlistment. A request for a waiver can be submitted during the processing of a formal application for reenlistment through a recruiter.

Medical Conditions and Misconduct: DoD disability regulations do not preclude a disciplinary separation. Appropriate regulations stipulate that separations for misconduct take precedence over potential separations for other reasons. Whenever a

member is being processed through the Physical Evaluation Board, and is processed subsequently for an administrative involuntary separation or is referred to a court martial for misconduct, the disability evaluation is suspended pending the outcome of the non-disability proceedings. If the action includes either a punitive or administrative discharge for misconduct or for any basis wherein an Other Than Honorable discharge is authorized, the medical board report is filed in the member's terminated health record. Additionally, the NDRB does not have the authority to change a narrative reason for separation to one indicating a medical disability or other medical related reasons. Only the BCNR can grant this type of narrative reason change.

Automatic Upgrades: There is no law or regulation that provides for an unfavorable discharge to be upgraded based solely on the passage of time or good conduct subsequent to leaving naval service.

Post-Traumatic Stress Disorder and/or Traumatic Brain Injury: For all claims involving PTSD and/or TBI, the NDRB's review implemented the guidance set forth in the SECDEF Memorandum of 3 September 2014 (Supplemental guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder). In accordance with U.S. Code, Title X, Section 1553 (d)(1) & (d)(2), the NDRB included a member who is a physician, clinical psychologist, or psychiatrist and accorded the case sufficient priority to achieve an expedited resolution and a final decision. If the Applicant's claim of PTSD/TBI was based in whole or in part on sexual trauma, intimate partner violence, or spousal abuse, the NDRB obtained a review by a psychiatrist, psychologist, or social worker with training on mental health issues associated with PTSD/TBI or other trauma.

Post-Service Conduct: The NDRB is authorized to consider post-service factors in the recharacterization of a discharge. Outstanding post-service conduct, to the extent such matters provide a basis for a more thorough understanding of the Applicant's performance and conduct during the period of service under review, is considered during Board reviews. Documentation to support a post-service conduct upgrade includes, but is not limited to: a verifiable continuous employment record; marriage and children's birth certificates (if applicable); character witness statements; documentation of community or church service; certification of non-involvement with civil authorities; evidence of financial stability or letters of good standing from banks, credit card companies, or other financial institutions; attendance at or completion of higher education (official transcripts); and documentation of a drug-free lifestyle. The Applicant is advised that completion of these items alone does not guarantee the upgrade of an unfavorable discharge, as each discharge is reviewed by the Board on a case-by-case basis to determine if post-service accomplishments help demonstrate that in-service misconduct was an aberration and not indicative of the member's overall character.

Issues Concerning Bad-Conduct Discharges (BCD): Because relevant and material facts stated in a court-martial specification are presumed by the NDRB to be established facts, issues relating to the Applicant's innocence of charges for which he was found guilty cannot form a basis for relief. With respect to a discharge adjudged by a special court-martial, the action of the NDRB is restricted to upgrades based on clemency. Clemency is an act of leniency that reduces the severity of the punishment imposed. The NDRB does not have the jurisdictional authority to review a discharge or dismissal resulting from a general court-martial.

Board Membership: The names and votes of the members of the NDRB Board are recorded on the original of this document and may be obtained from the service records by writing to: Secretary of the Navy Council of Review Boards, Attn: Naval Discharge Review Board, 720 Kennon Street SE Rm 309, Washington Navy Yard DC 20374-5023.

Military Sexual Trauma: The Department of Veterans Affairs (VA) uses the term "military sexual trauma" (MST) to refer to experiences of sexual assault or repeated, threatening sexual harassment experienced while on federal active duty, active duty for training, or inactive duty training. To get confidential one-on-one help please contact the MST Coordinator at your nearest VA Medical Center or Call Safe Helpline at 1-877-995-5247 or visit www.mentalhealth.va.gov/msthome.asp.

Reporting Military Sexual Trauma: To report a military sexual trauma, you can make an anonymous report to the Naval Criminal Investigative Service (NCIS) by Text or Online. The NCIS Tip Line provides service members, veterans and civilians a safe, discreet and ANONYMOUS option to report criminal and force protection threats within the USN and USMC without concerns of retaliation. To report a crime by Text: Text 274637 (CRIMES); Type "**NCIS**" at the top of the message; and include as much detail as possible to ensure your tip can effectively be investigated. To send your ANONYMOUS Tip via the online, go to https://www.tipsubmit.com/webtipsNAV.aspx?AgencyID=840.

Suicide Prevention: Veterans in emotional crisis or their loved ones can call the free and confidential Veterans Crisis Line at 1-800-273-8255 (then press 1); or chat online at http://www.veteranscrisisline.net, or send a text message to 838255 to connect with a caring, qualified Veteran Affairs Responder who can deal with any immediate crisis.