

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

**AR20160010095**

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

**a. Application Date:** 18 May 2016

**b. Date Received:** 27 May 2016

**c. Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:** The applicant requests an upgrade of her general (under honorable conditions) discharge to honorable. The applicant seeks relief contending, in effect, that she would like an upgrade of her discharge for the purpose of being able to seek higher education. The applicant contends her discharge was inequitable because it was based on one incident within 29 months of service with no other adverse action or warnings. When she was 19 years old she was arrested for shoplifting, she informed her chain of command, resulting in her going to court. Her commander thanked her for her honesty and indicated he wasn't going to seek further punishment. The applicant contends she was a target to a new commander two years later because of her sexual preference. She started paperwork to begin her chapter just two months after taking officer. At the time of her discharge she was young and since has grown so much. She does not feel like she was treated fairly. She believes she was a great Soldier who has never had any problems, negative counseling's or Article 15's over the course of her 29 months. She believes her current characterization of service prevents her from receiving educational benefits. As a low income recipient she is not financially stable enough to pay the cost of tuition. She accepts full responsibility for her actions, she just wants a fair chance at bettering her life.

Per the Board's Medical Officer, based on the information available for review at the time, the applicant has AHLTA diagnoses that include Adjustment Disorders, Irritability, and Partner Relational Problem. The applicant was not in treatment for other psychiatric conditions. The applicant is not claiming behavioral health mitigation in this case. The JLV showed no VA service-connected percentages; she also was psychiatrically cleared for administrative discharge. The misconduct of stealing has no mitigating mental health condition linked to it, nor did her misidentifying herself to the police in an investigation

In a records review conducted at Arlington, VA on 04 August 2017, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 19 May 2015

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 30 March 2015

**(2) Basis for Separation:** The applicant was informed of the following reasons: stealing merchandise of a value of \$857.20 on 8 September 2013 the property of [REDACTED]

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██████████ and stealing merchandise of a value of \$331.77 on 19 September 2013, the property of ██████████ and

Wrongfully endeavored to impede an investigation in the case of Arkansas v Threatt by communicating false misleading information to a police officer by stating that her name was ██████████ with a social security number of ██████████ on 29 September 2013.

**(3) Recommended Characterization:** General (Under Honorable Conditions)

**(4) Legal Consultation Date:** 1 April 2015

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

**(6) Separation Decision Date / Characterization:** 20 April 2015 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 17 July 2012 / 3 years, 23 weeks

**b. Age at Enlistment / Education / GT Score:** 18 / HS Graduate / 98

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 74D10, Chemical Operation Specialist / 2 years, 10 months, 3 days

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

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** NDSM, GWOTSM, ASR

**g. Performance Ratings:** None

**h. Disciplinary Action(s) / Evidentiary Record:** Report of Mental Status Evaluation, dated 21 January 2015, which shows the applicant was evaluated for AR 635-200, chapter 13. It was noted that the applicant was being treated for mental health; however, it was the belief of the behavioral health provider that the action leading up to the chapter separation were not directly attributable to the applicant's behavior health diagnosis. The applicant met medical retention for any pending psychiatric issues per AR 40-504. She was screened for PTSD and mTBI IAW OTSG/MEDCOM policy Memo 10-040. Results were negative. The applicant was psychiatrically cleared for Chapter 13 consideration per her command.

The applicant received numerous negative counseling statements for various acts of misconduct and performance counseling.

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

**j. Diagnosed PTSD / TBI / Behavioral Health:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293.

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

**7. REGULATORY CITATION(S):** Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. Chapter 14 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, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. Army policy states that an under other than honorable conditions discharge is normally considered appropriate; however, a general, under honorable conditions or an honorable discharge may be granted.

Paragraph 14-12c states a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

**8. DISCUSSION OF FACT(S):** The applicant requests an upgrade of her general (under honorable conditions) discharge to honorable. The applicant's record of service, the issues and documents submitted with her application were carefully reviewed.

The record confirms the applicant's discharge was appropriate because the quality of her service was not consistent with the Army's standards for acceptable personal conduct and performance of duty by military personnel. It brought discredit on the Army, and was prejudicial to good order and discipline.

The applicant provided no independent corroborating evidence demonstrating that either the command's action was erroneous or that the applicant's service mitigated the misconduct or poor duty performance, such that she should have been retained on Active Duty.

The applicant contends her discharge was inequitable because it was based on one incident within 29 months of service with no other adverse action or warnings. The applicant's contentions were noted; however, the service record indicates the applicant committed several discrediting offenses, which constituted a departure from the standards of conduct expected of Soldiers in the Army. The applicant's numerous incidents of misconduct adversely affected the quality of her service, brought discredit on the Army, and were prejudicial to good order and discipline.

The applicant contends she was a target to a new commander two years later because of her sexual preference. At the time of her discharge she was young and since has grown so much. She does not feel like she was treated fairly. She believes she was a great Soldier who has never had any problems, negative counselings or Article 15s over the course of her 29 months.

However, there is a presumption of regularity in the conduct of governmental affairs that shall be applied in any review unless there is substantial credible evidence to rebut the presumption. The applicant bears the burden of overcoming this presumption through the presentation of substantial and credible evidence to support this issue. There is no evidence in the record, nor has the applicant produced any evidence to support the contention that she was a target to a new commander because of sexual preference. The applicant's statement alone does not overcome the government's presumption of regularity and no additional corroborating and supporting documentation or further evidence has been provided with the request for an upgrade of the discharge.

The applicant's service accomplishments and the quality of service prior to the incidents that caused the initiation of discharge proceeding were carefully considered. However, it should be noted by regulation, an under other than honorable conditions (UOTHC) discharge is normally

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appropriate for a member separated by reason of misconduct (serious offense). It appears the applicant's generally good record of service was the basis for her receiving a GD instead of the normal UOTHC discharge.

The applicant expressed her desire for an upgrade of her discharge for the purpose of being able to seek higher education. However, eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

The record does not contain any indication or evidence of arbitrary or capricious actions by the command and all requirements of law and regulation were met and the rights of the applicant were fully protected throughout the separation process. The character of the applicant's discharge is commensurate with his overall service record.

The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

**9. BOARD DETERMINATION:** In a records review conducted at Arlington, VA on 04 August 2017, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

**10. BOARD ACTION DIRECTED:**

- |                                                   |           |
|---------------------------------------------------|-----------|
| a. Issue a new DD-214/Issue new Separation Order: | No        |
| b. Change Characterization to:                    | No Change |
| c. Change Reason to:                              | No Change |
| d. Change Authority to:                           | No Change |
| e. SPD/RE Code Change to:                         | No Change |
| f. Restoration to Grade:                          | No Change |

**Authenticating Official:****Legend:**

AWOL - Absent Without Leave  
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  
NA - Not applicable

NCO - Noncommissioned Officer  
NIF - Not in File  
NOS - Not Otherwise Specified  
OAD - Ordered to Active Duty  
OMPF - Official Military Personnel File  
PTSD - Post-Traumatic Stress Disorder  
RE - Reentry

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 - Veterans Affairs