

1. Applicant's Name:

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** Yes

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

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is honorable. The applicant requests a change to the narrative reason and separation code (Separation Program Designator, SPD).

The applicant seeks relief contending, in effect, the separation code and narrative reason on the DD Form 214 should be changed because of successfully overcoming the allegations made in the GOMOR, which were used as basis for elimination from the US Army, and the other reasons of misconduct and substandard performance being unfounded, considering the diagnosis and treatment for PTSD and an honorable characterization of service. The Board should also review the applicant's request for an early retirement under TERA because of an Honorable discharge, despite being just four months short of TERA retirement eligibility at the time of separation. On 16 March 2015, the applicant would have completed 15 active years of federal service for a total of 17 years of service. The applicant is a combat veteran who served in Iraq during the Operation Iraqi Freedom. In general, persons who have served are eligible for separation and severance pay. The applicant is entitled to a separation pay based on 16 years of honorable service. The behavior described in the GOMOR did not rise to the level of misconduct that was used to eliminate the applicant, notwithstanding the medical diagnosis of anxiety and Post Traumatic Stress Disorder. Because the applicant is no longer in the military, the Board should either transfer the GOMOR to the restricted part of the OMPF or expunge the document. The applicant is committed to self-improvement and will continue to use the resources available to help cope properly with the PTSD, which has mitigated the unfortunate circumstances. The GOMOR served its intended purpose by encouraging the applicant to voluntarily seek individual therapy and marital counseling. From 5 to 22 November 2011, the applicant attended inpatient therapy and was diagnosed with PTSD. Despite being released with a positive prognosis, the applicant resumed extensive outpatient therapy at the Hampton Health Center in West Hampton, New Jersey, from 2 December 2011 to 13 January 2012. The applicant successfully completed the program and obtained knowledge of the triggers, behaviors, and positive coping techniques for anxiety, PTSD, and anger. Since becoming aware of the PTSD, the applicant has developed specialized coping techniques to help manage the PTSD and anxiety. The applicant's good moral character and superior duty performance have been recognized by former and current Army colleagues. The applicant has since entered pastoral ministry in the African Methodist Episcopal Church and is currently pursuing a Master of Arts degree in Diplomacy. The applicant deeply regrets the conduct on 4 November 2011 and accepts full responsibility for them. The applicant further details the contentions in an allied self-authored statement provided with the application.

b. **Board Type and Decision:** In a records review conducted on 28 March 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

Please see Section 9 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: Unacceptable Conduct / AR 600-8-24, Chapter 4-2B / JNC / Honorable

b. Date of Discharge: 20 November 2014

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 19 December 2013

(2) Basis for Separation: The applicant was informed to show cause for retention on active duty under the provisions of AR 600-8-24:

Paragraph 4-2(c)(5) and Memorandum, OCAR, DAAR-HR, 10 September 2013, Subject: Involuntary Separation of Army Reserve Officers and Warrant Officers, Paragraph 5(d), due to derogatory information filed in the Army Military Human Resource Records (AMHRR) since the last promotion board;

Paragraphs 4-2b(5), (8), and (13) due to misconduct and/or moral, or professional dereliction of duty; and

Paragraphs 4-2(a)(2) and (5) due to substandard performance of duty.

The General Officer Show Cause Authority (GOSCA) cited the following specific reasons for elimination:

Serious substantiated derogatory activities resulting in a GOMOR, 25 February 2012, being filed in the AMHRR on 24 March 2012, and the petition to the DASEB to transfer the reprimand to the restricted portion of the AMHRR was denied on 16 July 2023.

Acts of personal conduct, and conduct unbecoming an officer, for a pattern of maltreatment and abuse of the spouse, C. T. H.

Substandard performance of duty for failure to keep pace or to progress with contemporaries, as demonstrated by a low record of efficiency when compared with other officers of the same grade and competitive category, and failure to properly perform assignments commensurate with an officer's grade and experience.

(3) Legal Consultation Date: 28 January 2014

(4) Board of Inquiry (BOI): On 4 March 2014, the Board of Inquiry convened, and the applicant appeared with counsel. The Board determined the reasons listed in the notification memorandum were supported by a preponderance of the evidence. The board recommended the applicant's discharge with characterization of service of honorable.

(5) GOSCA Recommendation Date / Characterization: On 23 June 2014, the GOSCA recommended the applicant be separated from service. / Honorable

(6) DA Board of Review for Eliminations: On 25 September 2014, the Army Board of Review for Eliminations considered the GOSCA's request to involuntarily separate the applicant for unacceptable conduct in accordance with AR 600-8-24, Chapter 4-2b.

(7) Separation Decision Date / Characterization: 8 October 2014 / Honorable

4. SERVICE DETAILS:

a. Date Ordered to Active Duty / Period: 29 September 2008 / 3 years / Amended by Orders R-09-888798A01, 15 February 2011, to an indefinite active duty commitment

b. Age Ordered to AGR Status / Education: 37 / Master's Degree

c. Highest Grade Achieved / MOS / Total Service: O-4 / 56A, Command/Unit Chaplain / 16 years, 8 months, 17 days

d. Prior Service / Characterizations: USAR, 4 March 1998 – 9 June 2000 / NIF
RA, 10 June 2000 – 28 September 2008 / HD

e. Overseas Service / Combat Service: Korea, SWA, Germany / Iraq (11 October 2004 – 10 October 2005)

f. Awards and Decorations: ARCOM-4, NDSM, GWOTSM, KDSM, ICM-CS, ASR, OSR-2, ARCOTR, MSM

g. Performance Ratings: 27 October 2008 – 11 June 2011 / Best Qualified
5 July 2011 – 4 July 2012 / Fully Qualified
5 July 2012 – 4 July 2013 / Best Qualified
5 July 2013 – 20 November 2014 / Not Qualified

h. Disciplinary Action(s) / Evidentiary Record: General Officer Memorandum Of Reprimand, 25 February 2012, reflects the applicant was involved in a domestic violence, the poor personal behavior and judgment, the failure to control the emotions left serious doubt of the ability to serve as a commissioned officer and chaplain, which had fallen drastically short of expectations and Army standards in several respects, and all the actions were less than expected of an officer of the applicant's rank, training, and experience.

Eight Developmental Counseling Forms for initial counseling; assigned duties; disregarding superior directives, incompetency, and making bad judgment decision; work performance requiring increase in standard; failing to respond to casualty notification coverage; issuance of military protective order; and not providing financial support, BAH, to dependent spouse.

Military Protective Order, 26 September 2013, identifies the spouse as the protected person and information supporting issuance of the order was based on the applicant harassing and communicating threats to the spouse.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs entitlement to VA benefits letter, 7 August 2015, reflecting the applicant was rated 30 percent for "other specified trauma

and stressor related disorder with adjustment-like disorder with delayed onset of symptoms (claimed as anxiety disorder and PTSD).

(2) AMHRR Listed: Report of Mental Status Evaluation (pages 181 to 183 of Government Exhibits), 20 December 2013, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions.

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; self-authored statement; DD Form 214; third-party letter; and VA benefits entitlement letter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant entered pastoral ministry in the African Methodist Episcopal Church and is currently pursuing a Master of Arts degree in Diplomacy.

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) 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 600-8-24 (Officer Transfers and Discharges) sets forth the basic authority for the separation of commissioned and warrant officers.

(1) Paragraph 1-23 provides the authorized types of characterization of service or description of separation.

(2) Paragraph 1-23a, states an officer will normally receive an honorable characterization of service when the quality of the officer's service has met the standards of acceptable conduct and performance of duty, or the final revocation of a security clearance under DODI 5200.02 and AR 380-67 for reasons that do not involve acts of misconduct for an officer.

(3) Chapter 4 outlines the policy and procedure for the elimination of officers from the active Army for substandard performance of duty.

(4) Paragraph 4-2b, prescribes for the elimination of an officer for misconduct, moral or professional dereliction, or in the interests of national security.

(5) Paragraph 4-20a (previously 4-24a), states an officer identified for elimination may, at any time during or prior to the final action in the elimination case elect one of the following options: (1) Submit a resignation in lieu of elimination; (2) request a discharge in lieu of elimination; and (3) Apply for retirement in lieu of elimination if otherwise eligible.

e. 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 "JNC" as the appropriate code to assign commissioned officers who are discharged under the provisions of Army Regulation 600-8-24, Chapter 4-2b, unacceptable conduct.

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

The applicant requests a change to the narrative reason and SPD.

The applicant requests a change to the that the narrative reason and SPD code for the discharge be changed. The applicant was separated under the provisions of Chapter 4, paragraph 4-2b, AR 600-8-24 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Unacceptable Conduct," and the separation code is "JNC." Army Regulation 635-8, Separation Processing and Documents, governs preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be exactly as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation further stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation. The SPD codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (Separation Program Designator (SPD) Codes) to track types of separations. The SPD code specified by Army Regulations for a discharge under Chapter 4, paragraph 4-2b, is "JNC."

The applicant contends other reasons of misconduct and substandard performance used as basis for the separation were unfounded. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends despite being four months short of retirement eligibility, the Board should consider the applicant for an early retirement under TERA and an entitlement to a separation pay, and to consider transferring the GOMOR to the restricted portion of the OMPF or expunging the document. The applicant's requests do not fall within this Board's purview. The applicant may reapply to the Army Board for Correction of Military Records (ABCMR) IAW Army Regulation 15-185 reconsideration guidelines.

The applicant contends entering pastoral ministry and pursuing a Master of Arts degree in Diplomacy. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

The applicant contends being diagnosed and treated for PTSD. The applicant's AMHRR contains documentation which supports an in-service diagnosis. The record shows the applicant underwent a mental status evaluation (MSE) on 23 December 2013, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The MSE was considered by the separation authority.

The applicant contends good moral character and superior duty performance have been recognized by former and current Army colleagues. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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 determined that, based on the Board's Medical Advisor opine resulting from a review of the applicant's submitted and official medical records and the applicant's service records, that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, PTSD, TBI, Anxiety Disorder NOS, Major Depressive Disorder, and Other Specified Trauma and Stressor Related Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board determined that, based on the Board's Medical Advisor opine resulting from a review of the applicant's submitted and official medical records and the applicant's service records, the applicant's Adjustment Disorder, PTSD, TBI, Anxiety Disorder NOS, Major Depressive Disorder and combat-related Other Specified Trauma and Stressor Related Disorder.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board applied liberal consideration and determined that, based on the Board Medical Advisor opine and the applicant's medical and service records, the applicant's behavioral health conditions mitigate the substandard performance of duty as there is a nexus between the Major Depressive Disorder, PTSD, TBI and difficulties with concentration, attention, and memory. It is more likely than not that this nexus impacted the applicant's duty performance. Further, the applicant's Major Depressive Disorder has a nexus with substandard duty performance as the natural sequela includes low motivation. However, there is no natural sequela between any of the applicant's behavioral health conditions and perpetrating a pattern of spousal maltreatment and/or abuse since none of these conditions contribute to targeted acts of abuse towards a specific victim, indicating motivation and choice.

(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 Adjustment Disorder, PTSD, TBI, Anxiety Disorder NOS, Major Depressive Disorder, and Other Specified Trauma and Stressor Related Disorder outweigh the applicant's medically unmitigated spousal maltreatment and abuse offense.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined the applicant's narrative reason for discharge is appropriate. The applicant's record of service, Adjustment Disorder, PTSD, TBI, Anxiety Disorder NOS, Major Depressive Disorder, and Other Specified Trauma and Stressor Related Disorder do not outweigh, excuse, or mitigate the spousal maltreatment and abuse offense. Thus, the Board determined the discharge is proper and equitable.

(2) The applicant contends the SPD code should be changed. The Board considered this contention and determined that the applicant received the appropriate SPD code for the

discharge specified by AR 600-8-24, Chapter 4-2b (JNC). The Board further determined that the totality of the applicant's record, including the applicant's behavioral health conditions, do not outweigh the applicant's spousal maltreatment and abuse offense. Therefore, no change is warranted.

(3) The applicant contends other reasons for misconduct and substandard performance used as the basis for the separation were unfounded. The Board considered this contention and determined an upgrade is not warranted based on the medically unmitigated misconduct (spousal mistreatment and abuse), which was supported by the evidentiary record (spouse sworn statements, BOI findings, and policy investigator testimony).

(4) The applicant contends despite being four months short of retirement eligibility, the Board should consider the applicant for an early retirement under TERA; being entitled to a separation pay; and to consider transferring the GOMOR to the restricted portion of the OMPF or expunging the document. The Board determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may reapply to the Army Board for Correction of Military Records (ABCMR) IAW Army Regulation 15-185 reconsideration guidelines.

(5) The applicant contends good moral character and superior duty performance were recognized by former and current Army colleagues, entering pastoral ministry, and pursuing a Master of Arts degree in Diplomacy. The Board considered this contention and determined that these factors did not outweigh the applicant's medically unmitigated spousal maltreatment and abuse offense.

(6) The applicant contends being diagnosed and treated for PTSD. The Board considered this contention and determined that, while the applicant is diagnosed and treated for PTSD, the applicant's PTSD diagnosis and treatment do not mitigate or outweigh the applicant's medically unmitigated spousal maltreatment and abuse offense. Therefore, the board determined the discharge is proper and equitable.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. However, the applicant may request a personal appearance hearing to address issues before a Board. 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.

d. Rationale for Decision:

(1) The Board determined the discharge is proper and equitable as the Characterization of service is Honorable. No further relief is available.

(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 given the unmitigated misconduct that served as part of the basis of separation.

10. BOARD ACTION DIRECTED:

a. **Issue a New DD-214 / Separation Order:** No

b. **Change Characterization to:** No Change

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001201

d. Change RE Code to: No Change

e. Change Authority to: No Change

Authenticating Official:

6/17/2024

X

Presiding Officer, COL, U.S. ARMY

Army Discharge Review Board

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