

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 under other than honorable conditions. The applicant, through counsel, requests an upgrade to honorable and a narrative reason and RE code change.

The applicant seeks relief contending, in effect, deploying as the Company Executive Officer / Company Operations Officer, to Kuwait in August 2006. The applicant believes the applicant developed post-traumatic stress disorder (PTSD) during the deployment. When the applicant returned, the applicant began to self-medicate with excessive amounts of alcohol. The applicant did not seek medical treatment, believing the applicant would be perceived as weak and unable to lead. The PTSD symptoms coupled with self-medication, strained the applicant's marriage significantly. The only thing allowing the applicant to escape was a relationship, technically an affair, with a person who understood the applicant's pains and struggles. In many ways the applicant knew it was wrong, but it allowed the applicant to shift from the alcohol, and with the diminished capacity and inability to make rational decisions, it made sense to the applicant. The arguments in the other relationship, made the applicant quick to anger, a common symptom of PTSD. This became evident in October 2010, when the applicant had an altercation with a senior non-commissioned officer (SNCO). After the SNCO placed hands on the applicant, the applicant lost their temper and exchanged harsh words with the NCO. While the applicant did not assault the NCO, physical contact occurred. The applicant accepted accountability and received a General Officer Memorandum of Reprimand.

In January 2011, the applicant deployed to Afghanistan as the Company Commander. The individual the applicant was engaged with in the other relationship, deployed as well. The environment exacerbated the applicant's symptoms. The friction in the relationship boiled over and others became aware of the relationship. The applicant was relieved of command for the inappropriate relationship and accepted an Article 15. After redeploying, the applicant's symptoms worsened. The applicant sought treatment for insomnia, and a medical professional assessed the applicant with PTSD. The applicant came to understand the PTSD, the unknowing attempts to self-medicate, and an affair began during the first deployment in 2006 but was too embarrassed to admit. The applicant was involuntarily eliminated. Not fully understanding the depth of the PTSD diagnosis, the applicant elected not to challenge the discharge, and submitted a resignation in lieu of elimination proceedings. The applicant sought treatment through the Veterans Administration (VA), which consisted of medication for anxiety and insomnia and therapy, and the applicant was able to better manage the symptoms and rekindle the marriage. In 2015, the VA determined the applicant's characterization of service rendered the applicant ineligible for further treatment. The applicant was denied an upgrade in April 2015. The Miami Vet Center assessed the applicant with PTSD and the applicant is allowed to receive therapy, not medication. The applicant received treatment for PTSD or PTSD-related symptoms from Jackson Memorial Hospital in 2016 and 2017. This solidified the applicant's belief and conviction the misconduct underlying the discharge was because of PTSD.

b. Board Type and Decision: In a records review conducted on 28 May 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 and 4-24a (1) / BNC / Under Other Than Honorable Conditions

b. Date of Discharge: 9 April 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 21 October 2011

(2) Basis for Separation: The applicant was informed to show cause for retention on active duty under the provisions of AR 600-8-24, paragraphs 4-2b (5) and (8) and 4-2c (5) for acts of personal misconduct, conduct unbecoming of an officer, and adverse information filed in the Official Military Personnel File (OMPF) for the following reasons:

On 19 November 2010, an investigating officer, appointed under the provisions of Army Regulation 15-6, found the applicant engaged in a verbal and physical altercation with a senior noncommissioned officer in the presence of multiple subordinate Soldiers. On 1 April 2011, the applicant received a General Officer Memorandum of Reprimand, 4 March 2011, for this misconduct which was directed to be filed and the OMPF on 2 May 2011.

On 14 March 2011, an investigating officer, appointed under the provisions of Army Regulation 15-6, found the applicant violated multiple Articles of the Uniform Code of Military Justice (UCMJ) during the course of an inappropriate relationship with an enlisted Soldier. As a result, on 21 April 2011, the applicant was punished under the provisions of Article 15, UCMJ, for fraternizing with an enlisted Soldier, cruelty toward a person subject to the applicant's orders, indecent exposure, and adultery. The Article 15 was directed to be filed in the performance section of the applicant's OMPF.

(3) Legal Consultation Date: 1 November 2011

(4) Board of Inquiry (BOI): On 16 November 2011, the applicant submitted a resignation in lieu of elimination (RILE) and conditionally waived consideration of the case before a board of inquiry, contingent upon receiving a characterization of service no less favorable than an honorable discharge.

The Commander, 13th Sustainment (Expeditionary), and the Commander, III Corps and Fort Hood, recommended disapproval of the applicant's resignation in lieu of elimination and the case be referred to a board of inquiry.

On 19 January 2012, the DASA (RB) did not accept the applicant's RILE, and the case was returned to the Commanding General, Headquarters, III Corps and Fort Hood to conduct a board of inquiry unless the applicant tendered an unconditional RILE.

On 7 February 2012, the applicant tendered a RILE and unconditionally waived a board of inquiry.

The intermediate commanders recommended approval of the RILE with a characterization of service of under other than honorable conditions, with the exception of the battalion commander who recommended general (under honorable conditions).

(5) GOSCA Recommendation Date / Characterization: On 3 March 2012, the GOSCA recommended approval of the applicant's request for resignation in lieu of elimination. / Under Other Than Honorable Conditions

(6) DA Ad Hoc Review Board: The AD Hoc review board considered the applicant's request for resignation in lieu of elimination in accordance with AR 600-8-24, Chapter 4.

On 21 March 2012, The DASA (RB) accepted the RILE.

(7) Separation Decision Date / Characterization: 21 March 2012 / Under Other Than Honorable Conditions.

4. SERVICE DETAILS:

- a. **Date / Period of Appointment:** 22 December 2003 / NIF
- b. **Age at Appointment: / Education:** 22 / Bachelor's Degree
- c. **Highest Grade Achieved / MOS / Total Service:** O-3 / 90A, Logistics Officer / 8 years, 3 months, 21 days
- d. **Prior Service / Characterizations:** USAR, 19 December 2003 – 21 December 2003 / NA
- e. **Overseas Service / Combat Service:** SWA / Afghanistan (26 January 2011 – 6 May 2011); Kuwait (7 August 2006 – 14 August 2007)
- f. **Awards and Decorations:** ACM-CS, MSM, AAM, NDSM, GWOTEM, GWOTSM, ASR, OSR, NATOMDL
- g. **Performance Ratings:** 14 May 2004 – 30 November 2004 / Best Qualified
1 December 2004 – 1 August 2005 / Fully Qualified
2 August 2005 – 16 June 2008 / Best Qualified
17 June 2008 – 3 April 2010 / Best Qualified
23 January 2011 – 13 April 2011 / Do Not Promote
- h. **Disciplinary Action(s) / Evidentiary Record:** Serious Incident Report, 29 October 2010, reflects the applicant, the company commander at the time, was in an altercation with First Sergeant (1SG) C. L. regarding a computer. The applicant became verbally aggressive and too close to the 1SG, and Sergeant First Class S., stepped in between to prevent further escalation. The applicant followed the 1SG as the 1SG attempted to walk away.

Memorandum, subject: AR 15-6 Findings and Recommendations, 19 November 2010, reflects the applicant was under investigation because of a verbal and physical altercation between the applicant and Master Sergeant (MSG) C. L. The investigating officer (IO) found, among other findings, the altercation was because of unresolved tension for the past several weeks of conflict between MSG L. and the applicant. The applicant physically blocked the walking space and doorways, and MSG L. shoved the applicant out of the way enough to continue movement.

The IO recommended MSG Lewis be counseled and retrained on professional conduct and respect for rank; CPT Lewis be counseled for loss of military bearing and disrupting the good order and discipline of the Brigade HQ's and receive a Brigade Commander's Letter of Concern or General Officer Letter of Reprimand; and an independent command climate survey be conducted, but barring major issues from the independent survey/investigation, the applicant not be replaced as the company commander this close to the company's combat deployment.

Memorandum for Record, subject: Commander's Recommendation; AR 15-6, Investigation, Altercation between the applicant and MSG C. L., 21 December 2010, reflects the appointing authority concurred with the investigating officer, and recommended both the applicant and MSG L., receive a General Officer Memorandum of Reprimand, filed in the local file.

Memorandum, subject: Notification of Temporary Suspension, 3 March 2011, reflect the applicant was formally notified the duties as the commander was temporarily suspended because of an ongoing investigation into allegations of serious misconduct.

General Officer Memorandum Of Reprimand, 4 March 2011, reflects the applicant engaged in a physical altercation with the applicant's former First Sergeant, a senior enlisted noncommissioned officer, in the presence of multiple subordinate Soldiers in the 4th Sustainment Brigade Headquarters on 29 October 2010. The applicant provided rebuttal matters.

Memorandum, subject: no contact order, 8 March 2011, reflects the battalion commander issued a no contact order to the applicant with all members of the company because the commander received information the applicant was attempting to interfere with an ongoing investigation into the relationship between the applicant and SGT B-V.

Informal AR 15-6 Investigation Findings and Recommendations, 14 March 2011, reflects the investigating officer found there was sufficient evidence to find the applicant's relationship with Sergeant L. V. violated the Army Command Policy on prohibited relationships; the applicant's behavior qualified as conduct unbecoming an officer; the text message sent from the applicant's phone to SGT L. V. was indecent exposure; and the applicant's overall behavior should have been considered maltreatment of a subordinate. The investigating officer recommended the applicant be relieved of command; be subject to an officer elimination (show cause board); SGT L. V. receive extended counseling for prolonged emotional abuse and forced abortion; the investigation be forwarded to the applicant's fellow friends and commanders, who knew about the relationship and failed to report it to their command; and the units receive extensive training on fraternization and the Army policy on relationships and participate in a command climate survey.

General Officer Article 15, 21 April 2011, for:

On divers occasions, failing to obey a lawful general regulation, by fraternizing with Sergeant L. B-V. (between 18 November 2009 and 4 March 2011);

Being cruel toward SGT L. B-V., a person subject t the applicant's orders, by making SGT L. B-V. feel guilty about trying to break off the inappropriate relationship (10 February 2010 and 1 January 2011) and reminding SGT L. B-V. about the pain both had been through regarding the aborted baby each time SGT B-V. attempted to break off the inappropriate relationship (10 February 2010 and 1 January 2011);

Intentionally exposing in an indecent manner, the genitals in a text message sent to SGT B-V. (9 November 2009); and

Being a married person, did wrongfully have sexual intercourse with SGT B-V., a married person, not the spouse (between 18 November 2009 and 1 January 2011).

The punishment consisted of a forfeiture of \$2,594 pay per month for two months. The applicant provided matters in mitigation and extenuation.

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

j. **Behavioral Health Condition(s):**

(1) Applicant provided: Humana Military Healthcare Service medical document, 26 September 2011, reflecting the applicant was assessed with chronic insomnia because of mental disorder; nightmare disorder; and PTSD.

RCS Client Information Record, between 7 July 2016 and 15 September 2021, reflecting the applicant was assessed with PTSD and marital discord.

Jackson Health System Emergency / Trauma Documentation, 21 August 2016, reflecting the applicant was diagnosed with PTSD.

Department of Veterans Affairs Medical Center (VAMC) medical records, from 1 January 2016 and 14 September 2021, reflecting the applicant's problems listed as chronic PTSD; alcohol abuse; depression; psychological stress.

Challenged Conquered Progress Note, between 22 November 2021 and 12 March 2022, reflecting the applicant was diagnosed with adjustment disorder with depressed mood.

Colorado Clinical and Forensic Psychology letter 25 June 2022, reflecting the consulting forensic psychologist opined, the applicant had a history of adverse childhood experiences in combination with exposure to traumatic experiences while deployed in the Army caused an aggregate deleterious effect on the applicant's mental health. The reported symptoms remained consistent across providers and evaluators as well as over the years. The applicant's circumstances and mental status at and around the time of the assaultive incident were consistent with someone experiencing symptoms of PTSD. Self-medicating with substances through shopping relationships etcetera were common ways of managing the emotional deregulation resulting from PTSD. It seemed the extramarital relationship with another Soldier may have been a form of self-medicating the PTSD symptoms. It appeared clinically relevant and consistent the extramarital relationship may have been connected to and even caused by the PTSD.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 214; two DD Forms 293; self-authored statement; Legal Brief with all listed enclosures; Power of Attorney; Notification of Settlement; Abstract, self-medication and PTSD; medical records, excerpt from military records; medical records, Miami Vet Center; medical records, Miami VA Healthcare System; Jackson Memorial Records Request; PTSD literature; driver license; National Personnel Records Center letter; and military service record.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought treatment for PTSD and was able to better manage the symptoms, which allowed the applicant to rekindle the applicant's marriage.

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) Paragraph 1-23b, states an officer will normally receive a general (under honorable conditions) characterization of service when the officer's military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A separation under general (under honorable conditions) normally appropriate when an officer: Submits an unqualified resignation; Separated based on misconduct; discharged for physical disability resulting from intentional misconduct or neglect; and, for final revocation of a security clearance.

(4) Paragraph 1-23c, states a discharge under other than honorable conditions is an administrative separation from the service. A discharge certificate will not be issued. An officer will normally receive an under other than honorable conditions when he or she: Resigns for the good of the Service; is dropped from the rolls (DFR) of the Army in accordance with paragraph 5-9; (3) is involuntarily separated due to misconduct, moral or professional dereliction, or for the final revocation of a security clearance under DODI 5200.02 and AR 380-67 as a result of an act or acts of misconduct, including misconduct for which punishment was imposed; and, is discharged following conviction by civilian authorities.

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

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

(7) 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 "BNC" 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; and 4-24a (1), resignation in lieu of elimination.

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 an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 4, paragraph 4-2b, and 4-24a(1), AR 600-8-24 with a under other than honorable conditions discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Unacceptable Conduct," and the separation code is "BNC." 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 as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant requests an RE Code change. Army Regulation 635-8 dictates the entry of the reentry code for separation, entered in block 27. The regulation states these codes are not applicable to officers.

The applicant contends PTSD affected behavior which led to the elimination. The applicant provided several medical documents indicating diagnoses PTSD; alcohol abuse; depression; psychological stress; chronic insomnia because of mental disorder; nightmare disorder; and adjustment disorder with depressed mood. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends in the incident regarding the altercation with the SNCO, the SNCO shoved the applicant, which caused the applicant to lose the applicant's temper. An Army Regulation 15-6 Investigation found the applicant and the SNCO had a verbal and physical altercation. The applicant blocked the SNCO's walking space and the SNCO shoved the applicant out of the way enough to continue movement. The applicant received a GOMOR for engaging in a physical altercation with the SNCO, who was the former First Sergeant.

The applicant contends good service, including a two combat tours..

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits 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 applicant contends seeking treatment for PTSD and being able to better manage the symptoms, which allowed the applicant to rekindle the applicant's marriage. 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.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board liberally 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 Medical Advisor opine resulting from a review of the applicant's official records, including applicant submitted medical and service records, the applicant has the following potentially-mitigating diagnoses/experiences: PTSD, and Depression.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board determined that, based the Board Medical Advisor opine, the applicant is diagnosed with PTSD with onset during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board determined that, based the Board Medical Advisor opine, that the applicant's PTSD mitigates the applicant's offense of engaging in a verbal and physical altercation with a senior noncommissioned officer in the presence of multiple subordinate Soldiers as there is an association between PTSD and irritability and hyperarousal. However, the applicant's PTSD/Depression do not mitigate the applicant's offenses of an inappropriate relationship with subordinate enlisted Soldier, cruelty toward a Soldier subject to applicant's orders, indecent exposure, and adultery are not mitigated as there is no natural sequela with the PTSD as there is no nexus between PTSD/Depression and these offenses. The Board considered the applicant provided medical assessment opining that the applicant's adultery may have resulted from the PTSD as an attempt to self-medicate. However, the Board determined that the medical literature is more credible than this assessment as the literature and does not support a causal relationship between PTSD/Depression and these offenses; nor is adultery as natural sequela of PTSD/Depression. Rather, the Board determined that the evidence supports that the applicant did not have a condition that impaired the applicant's ability to distinguish right from wrong and adhere to right as the evidence supports that the applicant willfully engaged in behaviors that violated Army policy and regulation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD/Depression do not outweigh the applicant's medically unmitigated offenses of fraternizing with an enlisted Soldier, cruelty toward a person subject to the applicant's orders, indecent exposure, and adultery. The severity of this misconduct warrants and current discharge.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and determined the applicant's narrative reason for discharge is appropriate. While the applicant's PTSD diagnosis does mitigate a portion of the misconduct, specifically engaging in a verbal and physical altercation with a senior noncommissioned officer in the presence of multiple subordinates, it does not medically mitigate fraternizing with an enlisted Soldier, cruelty toward a person subject to the applicant's orders, indecent exposure, and adultery. In light of the current evidence of record, the Board determined the applicant's discharge was proper and equitable.

(2) The applicant requests an RE Code change. The Board considered this contention and determined the applicant was an Officer, there is no reenry code supplied upon discharge, honorable or otherwise.

(3) The applicant contends PTSD affected behavior which led to the elimination. The Board liberally considered this contention and determined that while PTSD does medically mitigate engaging in a verbal and physical altercation with a senior noncommissioned officer in the presence of multiple subordinate Soldiers. However, the applicant's PTSD does not medically mitigate fraternizing with an enlisted Soldier, cruelty toward a person subject to the applicant's orders, indecent exposure, and adultery. Thus, applicant's discharge is proper and equitable.

(4) The applicant contends good service, including a two combat tours. The Board considered the applicant's eight years of service, including two combat tours in Kuwait and Afghanistan and the numerous awards received by the applicant but determined that these factors did not outweigh the applicant fraternizing with an enlisted Soldier, cruelty toward a person subject to the applicant's orders, indecent exposure, and adultery. Thus, applicant's discharge is proper and equitable.

(5) The applicant contends an upgrade of the discharge would allow veterans benefits. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do 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.

(6) The applicant contends seeking treatment for PTSD and being able to better manage the symptoms, which allowed the applicant to rekindle the applicant's marriage. The Board considered this contention and determined that the applicant seeking treatment for PTSD and rekindling applicant's marriage do not outweigh the unmitigated misconduct based on the seriousness of the applicant's offense to include fraternizing with an enlisted Soldier, cruelty toward a person subject to the applicant's orders, indecent exposure, and adultery.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the 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 voted not to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence, the applicant's PTSD and depression do not outweigh the applicant's medically mitigated offenses - fraternizing with an enlisted Soldier, cruelty toward a person subject to the applicant's orders, indecent exposure, and adultery offenses. The Board also considered the applicant's contention PTSD affecting applicant's behavior leading to the discharge and found that the totality of the applicant's record does not warrant a discharge upgrade. 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. Therefore, the applicant's Under Other Than Honorable Conditions discharge was proper and equitable as the applicant's

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001379

conduct fell below that level of satisfactory service warranting a General discharge or meritorious service warranted for an upgrade to Honorable discharge.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, as the reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change, as there is no RE-code listed on the applicant's discharge paperwork, due to being an Army Officer, no upgrade actions are required for this item.

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
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** No Change

Authenticating Official:

7/1/2024

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