

1. Applicant's Name:

- a. **Application Date:** 29 January 2021
- b. **Date Received:** 5 February 2021
- c. **Counsel:** Yes

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade of their characterization of service to honorable, a change in the narrative reason for separation and separation code.

(2) The applicant states through counsel this request is made for reasons of propriety and equity. Despite the applicant taking personal accountability for their actions, their command made an error in discretion by not giving the applicant the opportunity to overcome their misconduct and to continue serving. The applicant was an exemplary Soldier prior to their lapse in judgement. Their military record clearly and convincingly proves they were an excellent candidate to overcome the single incident of misconduct that ended their Army career.

(3) The applicant steadfastly maintains their innocence regarding the allegations that they had a sexual relationship two other individuals that were not their spouse or that they allegedly struck another individual. Their command made an error in discretion by summarily moving forward with administrative separation proceedings rather than granting the applicant the chance to earn back the trust and respect of their superiors. Unfortunately, they had a lapse in judgment during a low point in their life when they were struggling with their marriage.

(4) The applicant's Army Military Human Resource Record (AMHRR) is devoid of the majority of their administrative separation document, so it is impossible to know if their command properly took into account of their Post-Traumatic Stress Disorder (PTSD) before finalizing the separation proceedings. The applicant is rated as 100-percent disabled by the Department of Veterans Affairs (VA), including a 70-percent for PTSD. They have been inequitably stigmatized and harmed by the under other than honorable conditions discharge.

b. Board Type and Decision: In a records review conducted on 24 January 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: Misconduct, (Serious Offense) / Army Regulation 635-200, Paragraph 14-12c / JKQ / RE-3 / Under Other Than Honorable Conditions

b. Date of Discharge: 4 November 2015

c. Separation Facts:

(1) Date of Notification of Intent to Separate: NIF

(2) Basis for Separation: NIF

(3) Recommended Characterization: NIF

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NIF

(6) Separation Decision Date / Characterization: 16 October 2015 / Under Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 15 January 2014 / 3 years

b. Age at Enlistment / Education / GT Score: 25 / 50 Semester Hours or More College Credit / 102

c. Highest Grade Achieved / MOS / Total Service: E-6 / 11B14, Infantryman / 8 years, 6 months, 15 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (9 April 2008 – 16 May 2009)

f. Awards and Decorations: ICM-2CS, ARCOM-3, AAM-5, AGCM-2, NDSM, GWTSM, NCOPDR-2, ASR, OSR-2

a. Performance Ratings: 1 February 2010 – 31 May 2010 / Among the Best
1 June 2010 – 31 May 2011 / Fully Capable
1 June 2011 – 10 November 2011 / Among the Best
11 November 2011 – 30 June 2012 / Among the Best
1 July 2012 – 30 June 2013 / Among the Best
1 July 2013 – 31 October 2013 / Among the Best
1 November 2013 – 15 August 2014 / Among the Best
16 August 2014 – 24 April 2015 / Marginal
24 April 2015 – 16 October 2015 / Marginal

g. Disciplinary Action(s) / Evidentiary Record:

(1) Seven DA Forms 2166-8 (NCO Evaluation Report), covering the periods 1 February 2010 through 15 August 2014, reflects the applicant's rater consistently rated their overall potential as "Among the Best" and their senior rater rated their overall performance as "Successful" "1" or "2" and their overall potential as "Superior" "1."

(2) A memorandum, Headquarters, U.S. Army Recruiting Command, subject: Reprimand, dated 20 March 2015, reflects the applicant was reprimanded for, as a married man, had a sexual relationship with someone who was not their spouse, which resulted in the birth of a child. Additionally, the applicant had a relationship with another person which the applicant knew was in violation of U.S. Army Recruiting Command regulation. Lastly, the

applicant had an inappropriate sexual relationship with a 17-year-old high school student, in violation of U.S. Army Recruiting Command regulation, Article 92 (Failure to Obey Order or Regulation), Uniform Code of Military Justice (UCMJ) and Article 134 (General Article), UCMJ.

(3) In the applicant's memorandum, subject: Rebuttal, dated 10 April 2015, the applicant states –

(a) They did in fact have sexual relationship with Ms. C____, who is the mother of their child and they have supported their child, taking responsibility for their actions. They did not have any romantic or sexual relationship with the other two individuals. One of the individuals admitted to lying about what happened to them so they could get out of their abusive home. The did not have a sexual relationship with E____ R____.

(b) They understand their actions against them are not professional and they ask to please take into account that they were separated from their spouse for almost 2 years and that they have been diagnosed and have suffered from PTSD since 2011. They believe suffering from PTSD has pushed him to find excitement and has hurt their relationship with their spouse. Their Army career has been perfect up to these incidents and they have always strived for excellence.

(4) A memorandum, U.S. Army Recruiting Company Medina, subject: Company Commander Recommendation on Filing Determination, dated 16 April 2015, reflects the applicant's company commander's recommendation to permanently file the applicant's GOMOR in their AMHRR and commented "[Applicant's] actions justify permanent filing of [their] reprimand and their rebuttal does not effectively address any reasons that influence this determination."

(5) A memorandum, U.S. Army Recruiting Battalion, Cleveland, subject: Commander Recommendation on Filing Determination, reflects the applicant's battalion commander's recommendation to permanently file the applicant's GOMOR in their AMHRR and commented "[Applicant's] actions are a violation of the Army Values and the UCMJ. Not only has [applicant] consistently undermined the efforts of this command but has refrained from taking responsibility for [their] actions since the allegations came to light. [Applicant does not understand the harm [applicant's] actions have caused, and I see no evidence that [applicant] could be rehabilitated and live honorably in the future."

(6) On 20 April 2015, the applicant's brigade commander recommended to permanently file the applicant's GOMOR in their AMHRR and commented "conduct unacceptable for any NCO. [Applicant] compromised [their] integrity on multiple occasions and this warrants permanent filing."

(7) On 24 April 2015, the commanding general, having carefully considered the GOMOR, the circumstances of the misconduct, and all matters submitted by the applicant in defense, extenuation, or mitigation, if any, along with recommendations of subordinate commanders, direct that the GOMOR will be placed permanently in the applicant's AMHRR.

(8) A DA Form 2166-8 (NCO Evaluation Report), covering the period 16 August 2014 through 24 April 2015 shows in:

- Part Ii (Reason for Submission) – Relief for Cause
- Part II (Authentication) – no entries for counseling dates and reflects that applicant's signature

- Part iV (Army Values/Attributes/Skills/Actions) – their rater marked "No" for "Duty" and "Integrity;" and commented "demonstrated a serious lack of integrity and poor judgement by having an inappropriate relationship with a person other than [their] wife" and "failed to fulfill [their] leadership's intent for positive and appropriate practices"
- Part IVb (Competence) – their rater marked "Needs Improvement (Much)" and commented – "NCO displayed poor judgment; had an inappropriate relationship with a person other than [their] wife which resulted in a child"
- Part IVd (Leadership) – their rater marked "Needs Improvement (Much)" and commented, in part – "set the wrong example; [their] inappropriate relationship with a person other than [their] wife resulted in the absence of a Center Leader during critical months"
- Part IVi (Rater Overall Performance) – their rater rated their overall performance as "Marginal"
- Part V (Senior Rater Overall Potential) – their senior rater commented –
 - do not promote; Soldier needs additional mentorship
 - substandard performance by this NCO; needs significant improvement and training
 - demonstrated weak potential for continued military service
- Part Vc (Senior Rater Overall Performance) – their senior rater rated their overall performance as "Poor" "5"
- Part Vd (Senior Rater Overall Potential) – their senior rater rated their overall potential as "Poor" "5"

(9) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ), dated 16 June 2015, reflects the applicant received nonjudicial punishment.

- in that, between on or about 1 March 2014 to on or about 31 March 2014, violated a lawful general regulation, by wrongfully having a sexual relationship with Private E____ R____, a subject of recruiting duties
- in that, between on or about 1 August 2014 to on or about 31 August 2014, violated a lawful general regulation, by wrongfully having sexual intercourse with Ms. S____ W____, a 17-year-old high school student
- in that, on or about 22 November 2014, assaulted Ms. A____ C____ by striking them
- in that, as a married man, did, between on or about 1 June 2013 to on or about the present day, wrongfully have sexual intercourse with Ms. C____, a woman, not your wife, being prejudicial to good order and discipline in the Armed Forces and/or being of a nature to bring discredit upon the Armed Forces
- the applicant's punishment consisted of a reduction in rank/grade to sergeant/E-5, forfeiture of \$1475.00 pay for 2 months, and extra duty and restriction for 45 days
- the applicant elected not to appeal

(10) A memorandum, Headquarters, U.S. Army Recruiting Command, subject: Administrative Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 16 October 2015, the separation authority, having reviewed the applicant's separation packet, approved the board's findings and recommendations that the applicant be separated under the provisions of Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Note, the Administrative Separation Board's findings and recommendations are not in evidence for review.] The commanding general directed the applicant be issued an Under Other Than Honorable Conditions Discharge Certificate and be immediately reduced to the lowest enlisted grade.

(11) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 4 November 2015, with 8 years, 6 months, and 15 days of net active service this period. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 16 October 2015
- item 18 (Remarks) – in part,
 - Continuous Honorable Active Service – 20070420 – 20140114
 - Member has Completed First Full Term of Service
- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 26 (Separation Code) – JKQ [Misconduct (Serious Offense)]
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Misconduct (Serious Offense)

h. Lost Time / Mode of Return: None

(1) **Applicant provided:** VA Letter and Rated Disabilities excerpt reflecting a summary of benefits currently received from the VA and their service-connected disability rating of 70-percent for PTSD.

(2) **AMHRR Listed:** NIF

i. Behavioral Health Condition(s): None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Brief in Support of Application for Discharge Upgrade, reflecting the applicant's counsel's argument in support of the applicant's request for an upgrade of their character of service and narrative reason for separation, with 13 exhibits, to include –
 - DD Form 214
 - Enlisted Record Brief
 - 3rd Party Statements, reflecting statements provided with the applicant's GOMOR rebuttal, attesting to their relationship with the applicant and their former statements being misrepresented
 - Memorandum, subject: Reprimand
 - Applicant's Rebuttal to the Reprimand
 - Company Commander's Recommendation on Filing Determination
 - DA Form 2627, reflecting the applicant's nonjudicial punishment for their misconduct
 - Separation Authority memorandum directing the applicant's Under Other Than Honorable Conditions discharge
 - nine DA Forms 2166-8 (NCO Evaluation Report) reflecting the applicant superior performance prior to their misconduct, and their adverse evaluations after their misconduct
 - Post Service Diplomas and Certificates, reflecting the accomplishments of the applicant after their discharge from the U.S. Army

- Notary Public Certification, reflecting the applicant's appointment and commission as a Notary Public
- VA Letter and Rated Disabilities reflecting a summary of their VA benefits and their service-connected disability rating of 70-percent for PTSD

6. POST SERVICE ACCOMPLISHMENTS:

- Notary Public Certificate
- Diploma, Associate in Applied Science
- Diploma, Bachelor of Science – Business Administration
- Diploma, Master of Business Administration
- Graduate Certificate in Corporate Innovation
- Certificate in Forensic Accounting
- Certificate in Human Resource Management

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, Title 10 U.S. Code, Section 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense (DoD) Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health

condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 6 September 2011, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) An Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(2) A General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(3) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record. Paragraph 14-12c (Commission of a Service Offense), stated 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.

(5) Chapter 15 (Secretarial Plenary Authority), currently in effect, provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c, misconduct (serious offense).

f. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DoD Instruction 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

(1) RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

g. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. A review of the available evidence provides an administrative irregularity in the proper retention of records, specifically the AMHRR is void of the applicant's Administrative Separation

Board Findings and Recommendations and the applicant's case files for approved separation only contains the separation authority memorandum. The AMHRR does reflect the applicant's adverse documents consisting of a GOMOR, DA Form 2627, and a "Relief for Cause" NCO Evaluation Report. The DD Form 214, unsigned by the applicant, provides the applicant was discharged with a character of service of Under Other Than Honorable Conditions for misconduct (serious offense). They completed 8 years, 6 months, and 15 days of net active service this period; however, the applicant did not complete their contractual reenlistment obligation of 3 years.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

d. The applicant's AMHRR does not provide documentation of a diagnosis of a PTSD diagnosis during the applicant's term of service.

e. Published DoD guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by [REDACTED] the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses: the applicant held in-service diagnoses of Adjustment Disorder and Unspecified Trauma and Stress Related Disorder. The applicant is service connected for PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant held in-service diagnoses of Adjustment Disorder and Unspecified Trauma and Stress Related Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that trauma is not associated with adultery as these acts required multiple, purposeful decisions overtime not reflective of impaired processes. Additionally, the applicant was able to state he made clear decisions to engage in adultery to fulfill needs including the thrill of being caught. Regarding assault, although the applicant asserted victimization, records substantiate the applicant was an offender of IPV. Additionally, he indicated he looked forward to domestic confrontations which is more indicative of an offender excited by the prospect of violence than a victim who may trigger confrontation to get abuse over with due to anxiety.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, the ADRB determined that the conditions did not outweigh the basis of separation

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends despite taking personal accountability for their actions, their command made an error in discretion by not giving the applicant the opportunity to overcome their misconduct and to continue serving.

The Board considered this contention non-persuasive during its deliberations.

(2) The applicant contends they were an exemplary Soldier prior to their lapse in judgement. Their military record clearly and convincingly proves they were an excellent candidate to overcome the single incident of misconduct that ended their Army career.

The Board considered this contention non-persuasive during its deliberations.

(3) The applicant contends they steadfastly maintain their innocence regarding the allegations that they had a sexual relationship with two other individuals that were not their spouse or that they allegedly struck another individual.

The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contentions that the discharge was improper or inequitable. In light of the current evidence of record, the Board determined the applicant's discharge was appropriate.

(4) The applicant contends their AMHRR is devoid of the majority of their administrative separation document, so it is impossible to know if their command properly took into account of their PTSD before finalizing the separation proceedings.

The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contentions that the discharge was improper or inequitable. In light of the current evidence of record, the Board determined the applicant's discharge was appropriate.

(5) The applicant contends they are rated as 100-percent disabled by the VA, including a 70-percent for PTSD.

The Board considered this contention and acknowledged the applicant's diagnoses, however the Board's Medical Advisor determined that the medical condition does not mitigate the basis for separation.

(6) The applicant contends they have been inequitably stigmatized and harmed by the under other than honorable conditions discharge.

The Board considered this contention and determined that the applicant received the appropriate SPD code for the discharge specified by AR 635-200, paragraph 14-12c. Therefore, no change is warranted.

d. 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 contentions that the discharge was improper or inequitable.

e. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service for the following reasons. Per the Medical Advisor, based on available medical records, the applicant held in-service diagnoses of Adjustment Disorder and Unspecified Trauma and Stress Related Disorder. These conditions were considered and determined to not be influential in his misconduct or require MEB consideration. Post-service, the applicant is service connected for PTSD although consistently denies any symptoms or difficulties. While liberal consideration was applied, the basis for separation is not mitigated. Trauma is not associated with adultery as these acts required multiple, purposeful decisions overtime not reflective of impaired processes. Additionally, the applicant was able to state he made clear decisions to engage in adultery to fulfill needs including the thrill of being caught. Regarding assault, although the applicant asserted victimization, records substantiate the applicant was an offender of IPV. Additionally, he indicated he looked forward to domestic confrontations which is more indicative of an offender excited by the prospect of violence than a victim who may trigger confrontation to get abuse over with due to anxiety. Accordingly, there is no medical mitigation. The Board considered the applicant's request, supporting documents, evidence in the records, medical review, and liberal consideration of discharge upgrade request. The Board also considered the applicants statements. The Board found that while liberal consideration was applied, the basis for separation is not mitigated. The reason for the applicant's separation and the character of service the applicant received upon separation were proper and equitable.

(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 the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214 / Separation Order:** 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:

2/4/2024

X

Presiding Officer, COL, U.S. ARMY
Army Discharge Review Board

Legend:

AWOL – Absent
Without Leave

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210005830

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 –
Noncommissione
d 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