

1. Applicant's Name:

- a. **Application Date:** 22 February 2021
- b. **Date Received:** 22 February 2021
- c. **Counsel:** None

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

a. **Applicant's Requests and Issues:** The current characterization of service for period under review is under other than honorable conditions. The applicant requests an upgrade to honorable, a change of the narrative reason for separation, separation code, reentry code, and restoration of their rank to master sergeant/E-8.

(1) The applicant, through counsel, seeks relief stating the reason for this request is of propriety and equity. Due to their involvement in a fuel selling scheme, they pled guilty to bribery and conspiracy to commit offenses against the United States in federal court. Aside from this misconduct, the applicant served honorably for approximately 20 years and the administrative separation board recommended they receive only a general (under honorable conditions) discharge; however, they received an UOTHC character of service.

(2) The applicant's UOTHC character of service focuses almost exclusively on their misconduct and does not properly take into account numerous factors in the applicant's favor; in particular their service, including consistently positive evaluations, numerous awards, six combat deployments to Afghanistan. They have served time in prison for their misdeeds and has also attempted to mitigate their misconduct by cooperating fully with law enforcement. As a result, the applicant's long, distinguished career in the Army and notions of clemency indicate the requested relief is also in the interest of equity.

b. **Board Type and Decision:** In a records review conducted on 17 May 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Civil Conviction) / Army Regulation 635-200, Paragraph 11, Section II (Conviction by Civil Court) / JKB / RE-4 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 21 February 2017

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 3 November 2015

(2) **Basis for Separation:** on 29 September 2015, the applicant plead guilty to conspiracy to commit offenses against the United States and bribery in United States District Court. The applicant was sentenced on 29 September 2015 to serve 60 months confinement on Count 1 and to serve 96 months on Count 2 which runs concurrently with the sentence of Count 1.

(3) **Recommended Characterization:** Under Other Than Honorable Conditions

(4) Legal Consultation Date: 3 November 2015

Administrative Separation Board: On 10 November 2015, the administrative separation board convened, and the applicant appeared with counsel. The board recommended the applicant's discharge with characterization of service of Under Other Than Honorable Conditions.

(5) Separation Decision Date / Characterization: 8 November 2016 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 7 August 2005 / Indefinite

b. Age at Enlistment / Education / GT Score: 28 / 60 Semester Hours or More College Credit / 110

c. Highest Grade Achieved / MOS / Total Service: E-7 / 92G4P, Food Service Specialist / 20 years, 4 months, 25 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (13 April 2003 – 1 October 2003, 17 May 2004 – 1 December 2004, 15 June 2005 – 15 December 2005; 6 October 2007 – 15 May 2008; and 26 February 2011 – 5 February 2012), Pakistan (7 September 2009 – 3 June 2010)

f. Awards and Decorations: ACM-2CS, BSM-3, MSM, JSCM, ARCOM-4, JMUA, MUC, VUA, AGCM-6, GWTEM, GWTSM, ADR, OSR, NATOMDL

g. Performance Ratings: November 2001 – October 2002 / Fully Capable
November 2002 – October 2005 / Among the Best
1 November 2005 – 31 October 2006 / Fully Capable
1 November 2006 – 1 May 2013 / Among the Best
2 May 2013 – 1 May 2014 / Fully Capable
1 May 2014 – 1 May 2015 / Fully Capable

h. Disciplinary Action(s) / Evidentiary Record:

(1) A Letter, Commanding General, U.S. Army Europe dated 6 February 2014, reflects the commanding general congratulations to then applicant, sergeant first class/E-7 (Promotable), on their selection for promotion to master sergeant/E-8. [A review of the applicant's Army Military Human Resource Record (AMHRR) provides no evidence of a promotion order.]

(2) A Judgment in a Criminal Case, United States District Court, dated 29 September 2015, reflects the applicant pleaded guilty to Count 1 – Conspiracy to Commit Offenses Against the United States and Count 2 – Bribery. The applicant was thereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 60 months for Count 1 and 96 months concurrent with Count 2. The applicant shall surrender for service of sentence at the institution designated by the Bureau of Prisoners on 15 December 2015. The applicant must pay the total criminal monetary penalties under the schedule of payments, assessment -

\$200.00 and restitution of \$7,499,200.00 with the U.S. Department of Defense named as the payee.

(3) A memorandum, Headquarters and Headquarters Company, 1st Special Forces Command (Airborne) (Provisional), subject: Letter of Intent, dated 6 October 2015, the applicant's company provided them of their intent to administratively separate them under the provision of Army Regulation 635-200, paragraph 14-5(2), conviction by civil court.

(4) A DA Form 3822 (Report of Mental Status Evaluation) dated 12 October 2015, reflects the applicant fit for full duty, including deployment, can understand and participate in administrative proceedings, appreciate the difference between right and wrong, and meets medical retention requirements (i.e., does not qualify for a Medical Evaluation Board).

(a) Section V (Diagnoses) reflects diagnosis of "Occupational Problem."

(b) Section VIII (Additional Comments) reflects the applicant was screened for Post-Traumatic Stress Disorder (PTSD) and mild Traumatic Brain Injury and the results were negative. Based on a review of records and the clinical interview, there is no indication the applicant has a substance use disorder. There is no evidence of mental defect, emotional illness, or psychiatric disorder of sufficient severity to warrant disposition through military medical channels. The applicant is psychologically cleared for any administrative action deemed appropriate by the separation authority.

(5) A memorandum, Headquarters and Headquarters Company, U.S. Army Special Forces Command, subject: Separation under Army Regulation 635-200, Chapter 14-5, Conviction by Civil Court, [Applicant], dated 3 November 2015, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 14-5, for conviction by civil court as described above in paragraph 3c2. The company commander recommended the applicant's characterization of service as under other than honorable conditions. On the same day, the applicant acknowledged the basis for the separation and of the right available to them.

(6) The applicant's memorandum, subject: Election of Rights under Army Regulation 635-200, Administrative Board Procedures, dated 3 November 2015, the applicant understood that they are entitled to an administrative separation board because they have 6 years or more of active and reserve service at the time of notification of separation or they have been given notice that they are being recommended for a separation under other than honorable conditions. They have been given the opportunity to confer with counsel. The elect for a personal appearance before an administrative separation board, appointment of a military counsel for representation and will submit statement on their own behalf to the separation board.

(7) A memorandum, Headquarters and Headquarters Company, U.S. Army Special Forces Command(Airborne), subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Chapter 14-5, Conviction by Civil Court, [Applicant], dated 9 November 2015, the applicant's company commander submitted a request to separate them from the Army prior to their expiration term of service. The company commander states rehabilitation will not be possible in this case as the applicant will be in civilian confinement.

(8) A memorandum, Headquarters, 528th Special Troops Battalion (Special Operations) (Airborne), subject: Separation under Army Regulation 635-200, Paragraph 14-5, Conviction by Civil Court, [Applicant], dated 9 November 2015, reflects the applicant's battalion commander's

recommendation to separate them from the Army prior to the expiration of their current term of service with their service characterized as Under Other Than Honorable Conditions.

(9) A memorandum, Headquarters, 528th Sustainment Brigade (Special Operations) (Airborne), subject: Separation under Army Regulation 635-200, Paragraph 14-5, Conviction by Civil Court, [Applicant], dated 9 November 2015, reflects the applicant's brigade commander's recommendation to separate them from the Army prior to the expiration of their current term of service with their service characterized as Under Other Than Honorable Conditions.

(10) A memorandum, Headquarters, 528th Sustainment Brigade (Special Operations) (Airborne), Notification of Administrative Board, dated 10 November 2015, notified the applicant that an administrative board will be conducted on 18 November 2015. The purpose of the board is to determine whether they should be discharged for a conviction by a civil court before the expiration of their term of service.

(11) A DA Form 1574 (Report of Proceedings by Investigating Officer/Board of Officers) dated 10 November 2015, reflects in –

(a) Section IV (Findings), the board, having carefully considered the evidence finds the allegations that on 29 September 2015, the applicant plead guilty in United States District Court in the Eastern District of North Carolina to conspiracy to commit offenses against the United States and bribery; and was subsequently sentenced to confinement for 60 months for count 1 and 96 months for count 2, in the notification of proposed separation is supported by a preponderance of the evidence. The board's findings do warrant separation.

(b) Section V (Recommendations), in view of the above findings, the board recommends the applicant be separated from the U.S. Army with a Under Other Than Honorable Conditions characterization of service.

(12) A memorandum, Headquarters, U.S. Army Special Forces Command (Airborne), subject: Administrative Separation under Army Regulation 635-200, Paragraph 14-5, Conviction by a Civil Court, [Applicant], dated 21 January 2016, the commanding general reviewed the administrative separation packet of the applicant. After careful consideration of all matters, the commanding general recommended the applicant be separated from the Army prior to the expiration of their current term of service and their service be characterized as Under Other Than Honorable Conditions. After reviewing the rehabilitative transfer requires, the commanding general determined the requirements do not apply to this action.

(13) A memorandum, Office of the Assistant Secretary, Manpower and Reserve Affairs, subject: Involuntary Separation of [Applicant] under the Provisions of Army Regulation 635-200, Paragraph 14-5 (Conviction by a Civil Court), date 8 November 2016, reflects the Assistant Secretary, Manpower and Reserve Affairs directed the applicant be separated under the provisions of Army Regulation 635-200, paragraph 14-5 with an Under Other Than Honorable Conditions discharge. The applicant has greater than 20 years of active federal service. As they are in civilian confinement with an expected release date of 2 December 2022, they waive the requirement for the applicant to submit a request for voluntary retirement. In accordance with Army Regulation 600-8-19 (Enlisted Promotions and Reductions), table 10-2, Rule 1, they directed the applicant be reduced to the rank/grade of private/E-1.

(14) A DA Form 4187 (Personnel Action) dated 27 January 2017, reflects the applicant's duty status changed from Present for Duty to Confined by Civilian Authorities effective 15 December 2015.

(15) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 21 February 2017, with 20 years, 4 months, and 25 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) – 8 November 2016
- item 18 (Remarks) – MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – Under Other Than Honorable Conditions; [Note it is void of a continuous honorable service remark]
- item 26 (Separation Code) – JKB
- item 27 (Reentry Code) - 4
- item 28 (Narrative Reason for Separation) – Misconduct, (Civil Conviction)

i. **Lost Time / Mode of Return:** 15 December 2015 – 21 February 2017 / Civil Confinement

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** as described above in paragraph 3h(4)

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Counsel's Brief in Support of Application for Discharge Upgrade with Exhibits.
 - DD Form 214
 - Administrative Separation Board Proceedings, reflecting an unsigned version, with recommendation of a General (Under Honorable Conditions) characterization of service [Note: the signed version of this document in the applicant's AMHRR reflects a recommendation of Under Other Than Honorable Conditions character of service]
 - Enlisted Record Brief, reflecting the applicants accomplishments
 - Narrative of Events
 - Master Sergeant/E-8 Promotion Congratulation Letters
 - Warrant Officer Procurement Program Materials
 - DA Forms 1059 – Service School Academic Evaluation Reports
 - Additional Coursework Certificates

6. POST SERVICE ACCOMPLISHMENTS: none submitted with application.

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 19 December 2016, 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. This regulation provided the authority and general provisions governing the separation of Soldiers before expiration term of service or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

(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) establishes policy and prescribes procedures for separating personnel for misconduct because of minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, and absence without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. 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 14-5 (Conditions that Subject a Soldier to Discharge and Reduction in Grade), stated a Soldier may be considered for discharge when initially convicted by civil authorities, or when action is taken that is tantamount to a finding of guilty, if one of the following conditions is present; a punitive discharge authorized for the same or a closely related offense under the Manual for Court-Martial 2002, as amended; or the sentence by civilian authorities includes confinement for 6 months or more, without regard to suspension or probation. A Soldier convicted by a civil court will be reduced or considered for reduction

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 "JKB" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, Section II, Misconduct (Civil Conviction).

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 waiverable and nonwaiverable 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. Army Regulation 600-8-19 (Enlisted Promotions and Reductions) dated 14 October 2016, prescribed the enlisted promotions and reductions function of the military personnel system. Paragraph 10-3 (Rules) stated a Soldier convicted by a civil court will be reduced or considered for reduction according to table 10-2 (Rules for Reduction for Misconduct). If the conviction is reversed, the Soldier will be restored to the former rank. Table 10-2, Rule 1 reflects, if a Soldier's sentence includes death or confinement of 1 year or more that is not suspended; and the Soldier is serving in any enlisted grade above E-1, then Soldier will be reduced to the lowest enlisted grade without referral to a reduction board. Appeal is authorized only to correct an erroneous reduction.

h. Army Regulation 635-8 (Separation Processing and Documents) prescribes policy and procedures regarding separation documents, it states in the preparation of the DD Form 214 for soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "Honorable," enter in item 18 (Remarks) "Continuous Honorable Active Service From (first day of service which DD Form 214 was not issued) until (date before commencement of current enlistment).

i. Manual for Courts-Martial, United States (2016 Edition) states, military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following, Article 81 (Conspiracy) and Article 134 (Bribery).

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 the applicant, in a civil conviction, plead guilty to Count 1 – Conspiracy to Commit Offenses Against the United States and Count 2 – Bribery and sentenced to prison for a total term of 60 months for Count 1 and 96 months concurrent with Count 2. An Administrative Separation Board convened, and the applicant appeared with counsel. The board recommended the applicant's discharge with characterization of service of Under Other Than Honorable Conditions. The DD Form 214 provides the applicant was discharged with a character of service of Under Other Than Honorable Conditions for misconduct (civil conviction), which is normally considered appropriate. They completed 20 years, 4 months, and 25 days of net active service and completed their first full term of service.

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. 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 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'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: In-service Adjustment Disorder and post-service connected Post-Traumatic Stress Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** In-service Adjustment 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 the basis requires extensive planning over time requiring conscious and purposeful decision making incongruent with trauma reaction or psychological condition.

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s): The applicant contends they request an upgrade to honorable in order to gain access to their GI Bill. 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.

(1) The applicant contends the reason for this request is of propriety and equity. The Board considered this contention and determined that the applicant's Adjustment Disorder, statement, and record of service do not outweigh the applicant's serious misconduct of pleading guilty to conspiracy to commit offenses against the United States and bribery. Therefore, no change is warranted.

(2) The applicant contends, stating due to their involvement in a fuel selling scheme, they pled guilty to bribery and conspiracy to commit offenses against the United States in federal court. Aside from this misconduct, they served honorably for approximately 20 years. The Board considered this contention and determined that the applicant's Adjustment Disorder, statement, and record of service do not outweigh the applicant's serious misconduct of pleading

guilty to conspiracy to commit offenses against the United States and bribery. Therefore, no change is warranted.

(3) The applicant contends the administrative separation board recommended they receive only a general (under honorable conditions) discharge; however, they received an UOTHC character of service. The Board considered this contention and determined that the applicant's Adjustment Disorder, statement, and record of service do not outweigh the applicant's serious misconduct of pleading guilty to conspiracy to commit offenses against the United States and bribery. Therefore, no change is warranted.

(4) The applicant contends their UOTHC character of service focuses almost exclusively on their misconduct and does not properly take into account numerous factors in their favor; in particular their service, including consistently positive evaluations, numerous awards, and six combat deployments to Afghanistan. The Board considered this contention and determined that the applicant's Adjustment Disorder, statement, and record of service do not outweigh the applicant's serious misconduct of pleading guilty to conspiracy to commit offenses against the United States and bribery. Therefore, no change is warranted.

(5) The applicant contends they have served time in prison for their misdeeds and have also attempted to mitigate their misconduct by cooperating fully with law enforcement. As a result, their long, distinguished career in the Army and notions of clemency indicate the requested relief is also in the interest of equity. The Board considered this contention and determined that the applicant's Adjustment Disorder, statement, and record of service do not outweigh the applicant's serious misconduct of pleading guilty to conspiracy to commit offenses against the United States and bribery. Therefore, no change is warranted.

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 considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found insufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advising official that the applicant's behavioral health conditions (PTSD, OBH), does not mitigate the applicant's misconduct of pleading guilty to conspiracy to commit offenses against the United States and bribery offense. Therefore, the Board voted not to change the applicant's characterization of service.

(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**

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210006292

- 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:

8/1/2024

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