

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 3 May 2021**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant Requests: The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade to honorable, a narrative reason change, and changes to both the separation and reentry codes.

b. Applicant Contention(s) / Issue(s): Through counsel, the applicant requests relief contending, aside from the incident which led to separation, maintained a spotless record and demonstrated strong potential for a promising career. The applicant acknowledged committing a serious mistake, explaining a friend asked them to take an XBOX and PlayStation as a "form of payment." Not fully understanding the situation but aware the request was suspicious; the applicant accompanied the friend and took both gaming systems. The following day, the applicant learned the items had been taken from another Soldier's room. The applicant immediately returned the items, apologized, and offered to repay the Soldier.

(1) The Criminal Investigation Division (CID) became involved, and the applicant cooperated fully, waived the rights, and provided a sworn statement admitting to the misconduct. The applicant's command preferred charges on 6 March 2020. Their appointed counsel advocated for non-judicial punishment under Article 15, rather than court-martial, citing the applicant's remorse, repayment, and cooperation. However, the command elected to proceed with a Chapter 10 separation in lieu of trial by court-martial.

(2) The applicant stated their chain of command supported retention in the Army and later recommended reconsideration of the discharge. Despite this support, the separation authority approved the Chapter 10 request and issued an under other than honorable characterization of service. The applicant believed this was disproportionate given the mitigating factors and the absence of prior misconduct.

(3) Since separation, the applicant enrolled in college, worked full-time, and pursued a career goal of becoming a physician assistant. They submitted documentation of school enrollment, employment, and multiple letters of support. The applicant requested the Board consider their remorse, repayment of the aggrieved party, cooperation with law enforcement, and continued post-service rehabilitation as evidence of good character and potential for honorable reclassification.

c. Board Type and Decision: In a records review conducted on 30 October 2025, and by a 3-0 vote, the Board determined clemency was warranted due to the applicant's length of service and post service accomplishments. The Board voted to upgrade the characterization of service to General (Under Honorable Conditions). Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / Under Other than Honorable Conditions

b. Date of Discharge: 28 May 2020

c. Separation Facts: The case separation files were not properly stored in the Army Military Human Resource Record (AMHRR); however, the available information is provided below.

(1) Date Charges Preferred / DD Form 458 (Charge Sheet): NIF

(2) Legal Consultation Date: NIF

(3) Basis for Separation: Pursuant to the applicant's voluntary request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

(4) CDR / Intermediate CDR Recommended Characterization: NIF

(5) Separation Approval Decision Date / Characterization: 11 May 2020 / Under Other than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment Under Review: 20 August 2018 / 3 years, 30 weeks

b. Age at Enlistment / Education / GT Score: 18 / High School Diploma / 104

c. Highest Grade Achieved / MOS / Total Service: E-3 / 25Q10 Multichannel Transmission Systems Operator-Maintainer / 1 year, 9 months, 9 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea / None

f. Awards and Decorations: NDSM, GWOTSM, KDSM, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The Enlisted Record Brief provides the applicant was flagged (Suspend Favorable Personnel Actions (FLAG) on 17 December 2019, for adverse action (AA).

(1) The applicant, through counsel, provided their service records and the following were identified:

(a) On 15 May 2019, the applicant received nonjudicial punishment in violation of AR 121, UCMJ (larceny) for stealing an Apple lightning USB cord (valuing \$29.00) and an Apple 5 watt USB power adapter (valuing \$19.00), the property of the Army and Air Force Exchange Services (Camp Humphreys, Korea) on or about 9 March 2019. Their punishment imposed a reduction to private second class (E-2); suspended forfeitures; restriction with extra duty for 14 days; and an oral reprimand.

(b) A Criminal Investigation Division (CID) Report, dated 30 January 2020, provides Military Police investigated a larceny of private property from a Soldier's barracks room between 28-29 October 2019. CCTV footage identified the applicant and another Soldier as involved. The applicant waived their rights, admitted to unlawful entry and larceny, and cooperated with investigators. The staff judge advocate later found sufficient probable cause to charge both Soldiers. The case was closed as founded and solved, with no further investigation warranted.

(c) On 8 May 2020, in a memorandum to the commander, defense counsel requested suspension of the applicant's Chapter 10 separation, or alternatively, issuance of a general discharge. Counsel stated the applicant's misconduct represented an isolated incident for which they were extremely remorseful. The applicant repaid the aggrieved Soldier \$200 for the property and fully cooperated to ensure its return. Counsel described the applicant as a young Soldier who made a single mistake and demonstrated genuine rehabilitation since the incident, emphasizing the Chapter 10 suspension would allow the applicant to prove their growth and complete service successfully. Counsel noted the applicant's separation under other than honorable conditions would cause unnecessary hardship, limiting the applicant's ability to pursue a healthcare career as a nurse practitioner or physician's assistant. Counsel concluded retaining the applicant would be in the best interest of the Army, as the infraction was minor compared to the lifelong impact of an adverse discharge.

(2) Notwithstanding the missing records to include the applicant's Chapter 10 voluntary discharge request, on 11 May 2020, the separation authority approved the discharge with an under other than honorable conditions characterization of service. Subsequently, they were reduced to the lowest enlisted grade.

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

j. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See "**Board Discussion and Determination**" for Medical Advisor Details.

(1) **Applicant provided:** None

(2) **AMHRR provided:** None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Self-Authored Statement; Certificate of Release or Discharge from Active Duty; Service Records; Attorney Letter

6. POST SERVICE ACCOMPLISHMENTS: The applicant was enrolled in college and was working full-time, with the goal of becoming a Physician's Assistant.

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

a. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

b. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

c. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

d. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, 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.

e. 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 DODI 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 waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaiverable 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.

f. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation. It states:

(a) 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.

(b) 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.

(c) An under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(d) A Bad Conduct discharge will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a Bad Conduct Discharge. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD.

(e) A Dishonorable discharge is the most severe type of discharge and will be given to a Soldier pursuant only to an approved sentence of general or special court-martial. The

appellate review must be completed and affirmed sentence ordered duly executed. Behaviors such as fraud, desertion, treason, espionage, sexual Assault, and murder and other actions may be punished with a dishonorable discharge.

(f) An Uncharacterized separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status. This characterization is when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority. A Soldier is in an entry-level status (ELS) if the Soldier has not completed more than 180 days of creditable continuous active duty prior to the initiation of separation action.

(2) Chapter 10, Discharge in Lieu of Trial by Court Martial is applicable to members who had committed an offense or offenses for which the authorized punishment included a bad conduct, or dishonorable discharge could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or general discharge was authorized, an under other than honorable conditions discharge was normally considered appropriate, unless the record was so meritorious it would warrant an honorable.

(a) After receiving legal counseling, the soldier may elect to submit a request for discharge in lieu of trial by court-martial. The soldier will sign a written request, certifying that they have been counseled, understands their rights, and may receive a discharge under other than honorable conditions.

(b) The following documents will accompany the request for discharge:

- A copy of a Charge Sheet (DD Form 458)
- Report of medical examination and mental status evaluation, if conducted
- A complete copy of all reports of investigation
- Any statement, documents, or other matter considered by the commanding officer in making his/her recommendation, including any information presented for consideration by the soldier or consulting counsel.
- A statement of any reasonable ground for belief that the soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

(3) Chapter 15 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. If Secretarial Authority is granted, it will normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

g. 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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu Trial by Court-Martial.

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

a. The applicant requests an upgrade to honorable, a narrative reason change, and changes to both the separation and reentry codes. A review of the record provides administrative irregularity in the proper retention of the case files, specifically, the charge sheet(s)/investigative report(s), their Chapter 10 voluntary discharge request, and whether or not they requested/completed separation exam(s). However, partial service records were provided by the applicant.

(1) An authenticated DD Form 214 provides the applicant was discharged under the provisions of AR 635-200, Chapter 10, In Lieu of Trial by Court-Martial with an under other than honorable conditions characterization of service with reduction to the lowest enlisted grade. In May 2019, the applicant received NJP in violation of Article 121, UCMJ (larceny) for stealing property from the post exchange valuing \$48.00 and was consequently reduced to PV2. A CID report reflects in November 2019, the applicant along with another Soldier unlawfully entered a barracks room (Article 129, UCMJ) and stole private property valuing \$800 (Article 121, UCMJ). Defense counsel requested suspension of the Chapter 10 proceedings, noting the misconduct was an isolated incident for which the young Soldier showed genuine remorse and made full restitution. The counsel emphasized the applicant's potential for rehabilitation, strong character, and desire to pursue a medical career. Counsel argued retention or a general discharge was more appropriate, as an other than honorable discharge would impose undue lifelong hardship disproportionate to the minor offense. They served 1 year, 9 months, and 9 days of a 3 year-30 week contractual obligation.

(2) The applicant contended they made a single poor decision, took full responsibility, repaid the aggrieved party, and cooperated with CID. They emphasized their previously spotless record, post-service rehabilitation, and pursuit of higher education. The applicant requested an upgrade to honorable, asserting the discharge was disproportionate given the mitigating circumstances and their demonstrated character growth.

b. Chapter 10 is a voluntary discharge request in-lieu of trial by court-martial. A discharge under other than honorable conditions normally is appropriate for a soldier who is discharge in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. For Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

c. Published Department of Defense guidance indicates the guidance is not intended to interfere or impeded on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether its 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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused or mitigated a discharge.

(2) Did the condition exist, or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

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

b. Prior Decisions Cited: NA – Personnel appearances only.

c. Response to Contention(s): The applicant is contending, they made a single poor decision, took full responsibility, repaid the aggrieved party, and cooperated with CID. They emphasized their previously spotless record, post-service rehabilitation, and pursuit of higher education. The applicant requested an upgrade to honorable, asserting the discharge was disproportionate given the mitigating circumstances and their demonstrated character growth. The Board considered this contention and the applicant's length of service and post service accomplishments in determining that clemency was warranted in this case.

d. The Board determined: The Board is offering clemency based upon applicant's length of service and post service accomplishments. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to General (Under Honorable Conditions) and directed the issue of a new DD Form 214. The Board determined the Narrative Reason and RE Code was proper and equitable and voted not to change it. The applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge

e. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

(2) The Board voted to change the applicant's characterization of service to honorable because, the applicant's length of service and post service accomplishments make the current discharge inequitable.

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

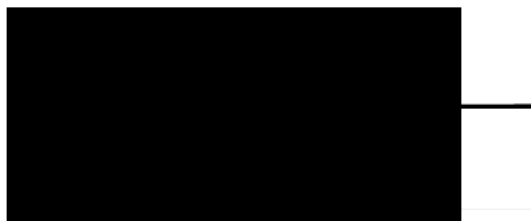
(4) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20210010785****10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: General (Under Honorable Conditions)
- c. Change Reason / SPD code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

Authenticating Official:

11/5/2025



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
FTR – Failure to Report

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