

**1. Applicant's Name:** [REDACTED]

- a. **Application Date:** 5 November 2020
- b. **Date Received:** 19 January 2021
- c. **Counsel:** None

**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, in effect, requests an upgrade of the characterization of their service in the U.S. Army Reserve (USAR) to honorable.

(2) The applicant seeks relief stating due to their USAR unit closing and moving to Jackson, MS, they had no way of completing their last 2 months of drill. They were pregnant at the time and was due a medical waiver.

**b. Board Type and Decision:** In a records review conducted on 17 July 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length of service and applicant being pregnant and requiring a medical waiver outweighed the applicant's failure to attend annual training basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade of the characterization of service to General, Under Honorable Conditions. The Board determined the narrative reason for discharge is proper and equitable and voted not to change it.

*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:** Unsatisfactory Participation / Army Regulation 135-178 / NIF / Under Other Than Honorable Conditions

**b. Date of Discharge:** 19 March 2013

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 18 December 2012

(2) **Basis for Separation:** failed to attend Annual Training beginning on 17 December 2012 or to provide a valid excuse for their absence

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

(4) **Legal Consultation Date:** NA

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** 5 March 2013

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 27 June 2006 / 8 years (USAR)
- b. **Age at Enlistment / Education / GT Score:** 18 / NIF / 98
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 92A10, Automated Logistical Specialist / 6 years, 8 months, 21 days
- d. **Prior Service / Characterizations:** NA
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** NDSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was released from active duty training on 6 December 2006, after completing their initial after completing their initial active duty training and being award a military occupational specialty. Item 24 (Character of Service) is shown as Uncharacterized. Item 9 (Command to Which Transferred) reflects the applicant was transferred to their USAR unit, Headquarters, 344th Maintenance Company, Bogalusa, LA.

(2) A Servicemembers' Group Life Insurance Election and Certificate dated 12 June 2009, reflects that applicant's current duty location as 344th Maintenance Company, Hammond, LA. (Note: there is no evidence of the applicant's transfer from the 344th Maintenance Company or their transfer to the Headquarters and Headquarters Company, 365th Combat Sustainment Support Battalion, Jackson, MS, in the applicant's Army Military Human Resource Record (AMHRR).)

(3) A memorandum, Headquarters, 321st Sustainment Brigade, subject: Notification of Separation Proceedings under Army Regulation 135-178, Chapter 13 (Unsatisfactory Participation in the Ready Reserve), dated 30 November 2010, the applicant's company commander attempted to notify the applicant of their intent to separate them under the provisions of Army Regulation 135-178, Chapter 13, with a recommended characterization of service Under Other Than Honorable Conditions for failing to attend Annual Training beginning on 17 December 2012 or to provide a valid excuse for their absence. The attached memorandum, subject: Acknowledgment, Election and Waiver of Rights in Separation Proceedings under Army Regulation 135-178, Chapter 13, Unsatisfactory Participation, [Applicant], reflects no entries from the applicant acknowledging receipt of notification. A United States Postal Track and Confirm inquiry reflects the applicant's Notification of Separation letter was delivered on 22 December 2012.

(4) A memorandum, Headquarters, 365th Combat Sustainment Support Battalion, subject: Separation under Army Regulation 135-178, Chapter 13 [Applicant], dated 3 February 2013, reflects the applicant's battalion commander reviewed the Non-Participant packet of the applicant and recommended they be separated with a characterization of service of Other Than Honorable Conditions. The battalion commander states, at the time of this memorandum, the Soldier has an accumulation of 18 unauthorized absentees.

(5) A memorandum, Headquarters, 365th Combat Sustainment Support Battalion, subject: Commander's Report for Separation under Army Regulation 135-178, Chapter 13, Unsatisfactory Participation: [Applicant], dated 6 February 2013, the applicant's company commander submitted a request to separate the applicant from the Army Reserve prior to the expiration of their term of military service and their service be characterized as Under Other Than Honorable Conditions. The company commander states the applicant failed to show for Annual training and they do not feel the applicant has the potential to perform useful service if ordered to active duty to meet mobilization requirements. Rehabilitative transfer is not feasible for this Soldier.

(6) A memorandum, Headquarters, 143rd Sustainment Command (Expeditionary), subject: Administrative Separation Action – [Applicant], in Accordance with Army Regulation 135-178, Chapter 13, Unsatisfactory Participation, dated 28 February 2013, reflects the Deputy Staff Judge Advocate reviewed the separation packet stating it is legally sufficient and no legal or administrative errors are contained in the packet.

(7) A memorandum, Headquarters, 143rd Sustainment Command (Expeditionary), subject: Administrative Separation Action – [Applicant], in Accordance with Army Regulation 135-178, Chapter 13 – Unsatisfactory Participation, dated 5 March 2013, reflects the separation authority reviewed the evidence and concluded the applicant is an Unsatisfactory Participant. They directed the applicant be separated from the USAR with an Under Other Than Honorable Discharge and reduced to private/E-1.

(8) Headquarters, 81st Regional Support Command Orders 13-073-00033, dated 14 March 2013, reduced the applicant in rank/grade of specialist/E-4 to private/E-1 and discharged them from the USAR with the type of charge of Under Other Than Honorable Conditions, effective 19 March 2013, under the authority of Army Regulation 135-178.

(9) A DA Form 5016 (Chronological Statement of Retirement Points) dated 4 June 2024, reflects the applicant's last known address and –

- from 12 June 2011 – 11 June 2012, the applicant was credit with 4 Inactive Duty Points (1 day of unit drills) and 9 active duty points
- from 12 June 2012 – 19 March 2013, the applicant was credit with 0 Inactive Duty Points (0 days of unit drills) and 0 active duty points

i. **Lost Time / Mode of Return:** NIF

j. **Behavioral Health Condition(s):** None

5. **APPLICANT-PROVIDED EVIDENCE:** None submitted with the application.

6. **POST SERVICE ACCOMPLISHMENTS:** None submitted with the 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, 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, DoD Directive 1332.41, and DoD Instruction 1332.28.

d. Army Regulation 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures), dated 1 March 2005, defined ARNG of the United States and USAR service obligations. It prescribed policies and procedures governing the various types of service obligations and participation requirements.

(1) Paragraph 3-3 (Satisfactory Participation in Troop Program Units (TPU)) stated TPU Soldiers are required to participate in at least 48 scheduled inactive duty training, and not less than 14 days, exclusive of travel time, of annual training. Satisfactory participation is defined –

- Attending all scheduled inactive duty training unless excused by the unit commander or granted a leave of absence
- Attending and satisfactorily completing the entire period of annual training unless excused by proper authority
- Obtaining a unit assignment during an authorized leave of absence

(2) Chapter 4 (Absences) governed absences from Ready Reserve training, it applies to all Army National Guard of the United States (ARNGUS) and USAR Soldiers. Soldiers should be aware of their service obligation as assigned Soldiers of the IRR. Soldiers should further be aware of the prerequisites for satisfactory participation and the actions that may result from unsatisfactory participation.

e. Army Regulation 135-178 (Enlisted Administrative Separations), dated 13 April 2007, set policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of ARNGUS and USAR enlisted Soldiers for a variety of reasons.

(1) An honorable characterization 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. When a Soldier is discharged before expiration of the service obligation for a reason for which an honorable characterization is discretionary, the following considerations apply, to include –

(a) An honorable characterization may be awarded when disqualifying entries in the Soldier's military record are outweighed by subsequent honorable and faithful service over a greater period of time during the current term of service.

(b) It is a pattern of behavior and not an isolated instance which should be considered the governing factor in determining the character of service.

(c) Unless otherwise ineligible, a Soldier may receive an honorable characterization of service if he or she has, during his or her current enlistment, or any extension thereof, received a personal decoration.

(2) A General discharge is if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as under honorable conditions. Characterization of service as general (under honorable conditions) is warranted when significant negative aspect of the Soldier's conduct or performance of duty outweighs positive aspects of the Soldier's military record.

(3) A Under Other Than Honorable Conditions Discharge, service may, but is not required to be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, homosexual conduct, unsatisfactory participation, or security

reasons. The Adjutant General will direct reduction in grade to private/E-1 when the Soldier is discharged under other than honorable conditions.

**(4)** Chapter 13 (Unsatisfactory Participation in the Ready Reserve) stated a Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because the Soldier is an unsatisfactory participant as described in Army Regulation 135-91, chapter 4 and attempts to have the Soldier respond or comply with order or correspondence have resulted in the Soldier's refusal to comply with orders or correspondence; or a notice sent by certified mail was refused, unclaimed, or otherwise undeliverable; or verification that the Soldier has failed to notify the command of a change of address and reasonable attempts to contact the Soldier have failed. Characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (Under Honorable Conditions) may be warranted.

**(5)** Paragraph 13-1 (Basis) stated, a Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because: the Soldier is an unsatisfactory participant as prescribed in Army Regulation 135-91, chapter 4; and attempts to have the Soldier respond or comply with orders or correspondence have resulted in the Soldier's refusal to comply with order or correspondence; or a notice sent by certified mail was refused, unclaimed, or otherwise undeliverable; or verification that the Soldier has failed to notify the command of a change of address and reasonable attempts to contact the Soldier have failed.

**(6)** Paragraph 13-3 (Characterization of Service) stated characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (Under Honorable Conditions) may be warranted. 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 inappropriate. In such cases, separation for unsatisfactory participation with an Honorable characterization will be approved by the separation authority.

**f.** Army Regulation 135-180 (Retirement for Non-Regular Service) dated 1 August 1987, implemented statutory authorities governing the granting of retired pay to Soldiers and former reserve component Soldiers. Paragraph 2-10 (Computation of Service) stated one point for each day of active duty and one point for each authorized participation in drills or period of instruction which conform to the requirements prescribed by the Secretary of the Army. Active duty means full-time duty in the active military service of the United States, it includes Annual Training duty.

**g.** Army Regulation 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents.

**a.** Paragraph 5-1 (When to Prepare the DD Form 214) states that a DD Form 214 will be prepared for Reserve Component Soldiers completing active duty that results in the award of a Military Occupational Specialty, even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

b. Paragraph 5-6x(1) states: when a Reserve Component Soldier successfully completes initial active duty training the character of service is Honorable unless directed otherwise by the separation approval authority."

#### 8. SUMMARY OF FACT(S):

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

b. The applicant's AMHRR reflects their status as an Unsatisfactory Participation which led to their discharge from the U.S. Army Reserve. The applicant's AMHRR contains their discharge order from the USAR under the provisions of Army Regulation 135-178. They completed 6 years, 8 months, and 21 days service this period and did not complete their 8-year USAR enlistment contractual obligation.

c. Army Regulation 135-178, Chapter 13 (Unsatisfactory Participation in the Ready Reserve) stated a Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because the Soldier is an unsatisfactory participant as described in Army Regulation 135-91, chapter 4 and attempts to have the Soldier respond or comply with order or correspondence have resulted in the Soldier's refusal to comply with orders or correspondence; or a notice sent by certified mail was refused, unclaimed, or otherwise undeliverable; or verification that the Soldier has failed to notify the command of a change of address and reasonable attempts to contact the Soldier have failed. Characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (Under Honorable Conditions) may be warranted.

d. Published Department of Defense 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? **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. Response to Contention(s):

(1) The applicant contends due to their USAR unit closing and moving to Jackson, MS, they had no way of completing their last 2 months of drill. The Board considered this contention

during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's length of service and applicant being pregnant and requiring a medical waiver outweighing applicant's failure to attend annual training basis for separation.

**(2)** The applicant contends they were pregnant at the time and due a medical waiver. The Board determined that this contention was valid and voted to upgrade the characterization of service due to length of service and applicant being pregnant and requiring a medical waiver outweighing the applicant's failure to attend annual training basis for separation.

**c.** The Board determined that the characterization of service was inequitable based on the applicant's length of service and applicant being pregnant and requiring a medical waiver outweighing the applicant's failure to attend annual training basis for separation. Accordingly, the Board voted to grant relief in the form of an upgrade of the characterization of service to General, Under Honorable Conditions. The Board determined the narrative reason for discharge is proper and equitable and voted not to change it. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d.** Rationale for Decision:

**(1)** The Board voted to change the applicant's characterization of service to General, Under Honorable Conditions because the applicant's length of service and applicant was pregnant and required a medical waiver outweighed the applicant's failure to attend annual training basis for separation. Thus, the prior characterization is no longer appropriate.

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

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



**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20210011247**

**10. BOARD ACTION DIRECTED:**

- a. Issue a New Separation Order: Yes**
- b. Change Characterization to: General, Under Honorable Conditions**
- c. Change Authority to: No Change**

**Authenticating Official:**

8/28/2024



**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