

1. Applicant's Name:

- a. **Application Date:** 21 October 2020
- b. **Date Received:** 17 May 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 general (under honorable conditions). The applicant requests an upgrade to honorable and any reason for separation be changed to Secretarial Authority.

(2) The applicant, through counsel, seeks relief stating there is no copy of their separation orders, a notice of separation, or other lawful orders providing for their separation from the U.S. Army Reserve (USAR) in their Army Military Human Resource Record (AMHRR). There is a General Officer Memorandum of Reprimand (GOMOR) in their AMHRR, and they do not believe the GOMOR was sufficient basis to justify their separation under any condition less than Honorable. In their rebuttal to the GOMOR they made several points that appear to be completely exculpatory to the allegations. For those reasons, they ask for the applicant's discharge be corrected to reflect their honorable service.

b. Board Type and Decision: In a telephonic personal appearance hearing conducted on 6 May 2024, and by a 3-2 vote, the Board denied the request upon finding the separation was both proper and equitable.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Resignation in Lieu of Involuntary Separation / Army Regulation 135-175, paragraph 2-13 / General (Under Honorable Conditions)

b. Date of Discharge: 11 July 2018

c. Separation Facts: The applicant's AMHRR is void of their case files for approved separation.

(1) **Date of Notification of Show Cause Board Action:** 30 October 2016

(2) **Basis for Separation:** Acts of Personal Misconduct and Conduct Unbecoming an Officer

(3) **Recommended Characterization:** NIF

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

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

(6) Separation Decision Date / Characterization: 20 October 2017 / General (Under Honorable Condition)

4. SERVICE DETAILS:

a. Date / Oath of Allegiance: 14 April 2010

b. Age at Allegiance / Education: 37 / Doctor of Veterinary Medicine

c. Highest Grade Achieved / MOS / Total Service: O-3 / 64A, Field Veterinary Service / 8 years, 3 months, 9 days (USAR)

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: ARCAM-2, NDSM, ASR

g. Performance Ratings: 6 October 2010 – 5 October 2011 / No Rating
6 October 2011 – 5 October 2012 / Center of Mass
6 October 2012 – 5 October 2013 / Center of Mass
6 October 2013 – 5 October 2014 / Qualified
6 October 2014 – 5 October 2015 / Qualified
6 October 2015 – 5 October 2016 / Not Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 67-10-1 (Company Grade Plate Officer Evaluation Report (OER)) covering the period 6 October 2014 through 5 October 2015, reflects in –

- Part IId – the OER is a Referred and the applicant marked "Yes" to provide comments
- Part IVb (Overall Performance) – the applicant's rater marked "Capable" and commented, "[Applicant's] performance has been marginal relative to [applicant's] peers, [Applicant] did not complete the MSAF [Multi-Source Assessment and Feedback] during the rating period as directed on [Applicant's] previous OER "
- Part IVc(2) (Presence) – the applicant's rater commented, in part, "[Applicant's] military bearing needs significant improvement, [Applicant] has been repeatedly corrected for uniform violations
- Part IVc(3) (Intellect) – the applicant rater commented, in part, "[Applicant] failed to make up rescheduled training and failed to request an excused absence for two battle assemblies, [Applicant] also neglected to attend or plan for Annual Training
- Part VI (Senior Rater) – the applicant's senior rater rated the applicant's potential as Qualified and commented, in part, -
 - [Applicant's] potential to serve as an Army Veterinarian and Soldier is guarded
 - [Applicant's] ability to participated in training or prepare for missions has been affected by [applicant's] physical injuries

- [Applicant] should enroll in Captain's Career Course to improve [applicant's] leadership skills and help [applicant] define the roles and conduct expected of an Army Officer

(2) An Evaluation Record Letter of Referral – Rated Officer Response, subject: Remarks Regarding Referred Officer Evaluation Report from 20141006 through 20151005 for [Applicant], dated 10 December 2015, the applicant states –

- they completed the Multi-Source Assessment and Feedback
- they have enrolled in the AMEDD [Army Medical Department] Captain's Career Course
- they provided all medical information required in a timely manner to renew for a profile, any lapse in having a profile was due to the command's delay in processing their application, and beyond their scope of influence.
- they have only received one counseling for minor uniform discrepancy for which they were receptive and complaint with the correction.
- they were gravely concerned about participating in Army Physical Fitness Test or Annual Training without guidance and provision of a profile, due to their unresolved back injury, they inquired about alternative Annual Training, but their command did not offer or help facilitate other Annual Training alternatives.
- this command does not utilize them to their current potential, nor does it foster an environment that encourages growth of their professional or Soldier skills.
- this command does not mentor them as a Soldier, professional, or leader, instead they feel they have been ostracized and marginalized by a command that offers them no guidance, no mentoring, and no direction.
- this command does not foster an environment consistent with Army values or Warrior Ethos that they had thoroughly read about in the "Army Officer's Guide."

(3) A memorandum, 807th Medical Command (Deployment Support), subject: Misconduct – [Applicant], dated 2 June 2016, the Chief, Administrative Law states:

(a) On 11 December 2015, an investigating officer found the applicant committed several acts of personal misconduct which constitute conduct unbecoming of an officer. The investigation contains the following –

(1) On or about 19 August 2014, while acting as the Officer in Charge at an Annual Training event, they entered the male barracks intoxicated from a combination of Ambien and alcohol and began to yell for Benadryl. Their actions were found to be disruptive and unprofessional.

(2) On or about 15 September 2014, they were stopped by a state trooper for driving 77 miles per hour in a 60 miles per hour zone. They then refused to take a field sobriety test and attempted to resist being arrested. They attempted to use their status as a military service member and their position as a doctor to seek special treatment and avoid being arrested. While being transported to the hospital for a blood draw to determine their Blood Alcohol Content (BAC), they yelled at the state trooper. They stated, "You know what I wish I could do is cut your nut sack off," or words to that effect to the state trooper. They were subsequently booked for driving under the influence of alcohol after exceeding the legal BAC limit.

(3) On or about 15 October 2015, while attending Battle Assembly they were corrected by Corporal (CPL) N_____ for violating Army Regulation 670-1 (Wear and Appearance

of Army Uniforms and Insignia) by wearing pink nail polish while on duty. They then became hostile toward CPL N____ and used profanity towards them.

(4) On or about 6 November 2015, while being telephonically counseled by their supervisor [rater] regarding the two violations of Army Regulation 670-1, as well as their demeanor towards Corporal N____, the applicant became hostile and used profanity towards their supervisor, a superior officer. They also hung up on their supervisor during this counseling session.

(b) The Office of the Staff Judge Advocate recommends the applicant be issued a General Officer Memorandum of Reprimand (GOMOR) for the above-mentioned misconduct.

(4) A memorandum, 807th Medical Command (Deployment Support), subject: GOMOR – [Applicant], dated 2 June 2016, reflects the applicant was reprimanded in writing for misconduct described in the previous paragraph. The commanding general states the applicant's behavior is inconsistent with Army Values, the Warrior Ethos, and the standards of performance expected of a commissioned officer. They betrayed the trust of their chain of command and failed as an Officer. Their lack of professionalism constitutes a complete disregard for the Army Values.

(5) In the applicant's letter regarding: GOMOR for [Applicant], dated 22 June 2016, they state –

(a) The event that occurred at the barracks on 19 August 2014, they were not male barracks, it was one dorm being utilized by both men and women. The upstairs were just for the males. They entered the upstairs when they were desperately seeking medical help for one of their doctors, they were having an anaphylactic reaction and needed Benadryl or an Epi-pen to resolve the medical emergency. They were not intoxicated "on a combo of Ambien and alcohol," this is untrue and a gross exaggeration. Their action in no way was "unbecoming of an officer." To imply that they were wildly drunk and seeking men in their barracks, is really offensive and shows that their fellow officers were forming a coup against them, to further assassinate their character.

(b) They were never convicted of a driving under the influence. They received a "reckless driving" charge for speeding. They did not resist arrest or refuse the sobriety test, that was a blatant lie by the officer that was being abusive to them. The cop was sadistic and was having fun with them. Their BAC did not exceed the legal limit, so they were not convicted of driving under the influence.

(c) Their demeanor toward a Noncommissioned Officer (NCO) was proportionate and appropriate after they screamed at them, an officer, and scolded them in front of everyone for having pink nail polish. The NCO's behavior was blatantly in violation of Article 89 (Disrespect Toward Superior Commissioned Officer) and their superior officer did not give them support once again. Their statements were not directed at their superior officer, but just a statement about the situation and their frustration at having no support from fellow officers. Their superior officer has been very hostile to them in the past and has a personal vendetta against them. They did not hang up the phone on their superior officer, they lost the connection.

(d) Their concern lies in the hostility of the officers of their unit, that have caused discrimination against them from the beginning. Their fellow officers have been unsupportive and have been creating a united front or a coup to get them kicked out to the Army. Their driving record was illegally accessed to view their driving incident and they should not have been given a GOMOR for driving under the influence as they were not convicted. The three accusations

made in this GOMOR are gross exaggerations and should show that their superiors and fellow officers are making a great effort to slander them and end their military career.

(6) On 16 September 2016, the commanding general carefully considered the GOMOR issued to the applicant, and it is their conclusion that the facts support the issuance of the GOMOR. The commanding general ordered the GOMOR be filed permanently in the applicant's AMHRR.

(7) A DA Form 67-10-1 (Company Grade Plate OER) covering the period 6 October 2015 through 5 October 2016, reflects in –

- Part II (Authentication) – the applicant's rater signed the OER on 2 June 2017, the senior rater signed on 3 June 2017, and the applicant's signature is missing.
- Part II d – the OER is a Referred and the applicant marked "NO" comments are attached.
- Part IV b (Overall Performance) – the applicant's rater marked "Unsatisfactory" and commented "[Applicant] has failed to meet standards in conduct and professionalism."
- Part IV c(1) (Character) – the applicant's rater commented, [Applicant] received a GOMOR in their permanent file after an Army Regulation 15-6 investigation for their conduct, they do not support Sexual Harassment/Assault Response and Prevention, Equal Opportunity, or Equal Employment Opportunity
- Part IV c(2) (Presence) – the applicant's rater commented, in part, "Due to ongoing conduct investigation and subsequent actions, [Applicant] was recommended by the battalion commander to perform Continuing Education, on-line training or other equivalent training out of uniform
- Part VI (Senior Rater) – the applicant's senior rater rated the applicant's potential as "Not Qualified" and commented –
 - rated Soldier unavailable for signature.
 - officer possesses limited potential to continue service in the USAR based on the findings in their GOMOR and
 - based on multiple counseling sessions conduct by their chain of command
- Part VI d (List Three Future Successive Assignments) – the applicant's senior rater commented "Officer is not suited to remain in the USAR."

(8) In the applicant's memorandum, subject: Resignation in Lieu of Elimination Proceedings, dated 3 February 2017, the applicant states –

(a) They have been informed that they are being considered for involuntary separation under Army Regulation 135-175 (Separation of Officers), chapter 2, paragraph 2-10, do hereby voluntarily tender their resignation as a Reserve Officer of the Army.

(b) They have been advised of the reasons for initiation of involuntary separation action, of their right to appear before a board of officers, to be represented by counsel, to submit a brief in their behalf, and any statements, to present witnesses in their behalf, and to have a reasonable time to prepare their case.

(c) They hereby waive these rights with the understanding that if their resignation is accepted, they will be separated under honorable conditions, will be furnished an Honorable Discharge Certificate.

(9) A memorandum, 145th Multifunctional Medical Battalion, subject: Commander's Recommendation – Resignation in Lieu of Separation for [Applicant], dated 6 February 2017, reflects the applicant's battalion commander's recommendation to disapprove the applicant's resignation in lieu of separation. The battalion commander states if the applicant is granted a resignation in lieu of separation as requested under unsatisfactory performance, they then will have an Honorable discharge. They will continue to be a representative of the USAR but with further characterization as one who has served "Honorably." Their service has not been honorable. Review of the Army Regulation 15-6 investigation completed December 2015, as well as documents characterizing behavior both before and after this investigation, reveals a pattern of behavior that is the antithesis of Army Values. This includes driving while drinking, mixing prescription drugs and alcohol, overtly sexual comments and gestures, and public disrespect of authority. They used their position as a USAR officer to try to garner favor from law enforcement while violating the law. No doubt that they would leverage Honorable service veteran status in the same manner. It is likely this type of behavior will continue, potentially resulting in a media worthy event that would reflect negatively on the USAR.

(10) A memorandum, 807th Medical Command (Deployment Support), subject: Resignation in Lieu of Involuntary Officer Separation – [Applicant], dated 11 February 2017, the commanding general reviewed and carefully considered the documentation concerning [Applicant's] request for a resignation in lieu of involuntary separation. The commanding general disapproved the applicant's request, stating, the applicant's behavior is inconsistent with Army Values, the Warrior Ethos, and the standards of performance expected of a commissioned officer. Their lack of professionalism constitutes a complete disregard for the Army Values.

(11) A memorandum, 807th Medical Command (Deployment Support), subject: Notification of Show Cause Board Action Scheduled for 20 October 2017, dated 6 September 2017, advised the applicant that their show cause board has been scheduled for 20 October 2017. The Chief, Administrative Law states, on 30 October 2016, the applicant was noticed for administrative separation under Army Regulation 135-175 for "Acts of Personal Misconduct" and "Conduct Unbecoming an Officer." The Show Cause Board shall determine if the applicant's conduct rises to the level of moral or professional dereliction and whether they should be discharged from service. A Resignation in Lieu of Involuntary Separation form is enclosed. On that same day, the applicant acknowledged receipt of the Officer Elimination Memorandum.

(12) On 10 October 2017, the applicant, having been informed of being considered for involuntary separation, voluntarily tendered their resignation as a Reserve commissioned officer of the Army. They acknowledged that they have been advised of the reasons for initiation of involuntary separation action, of their right to appear before a board of officers, to be represented by counsel, to submit a brief, and any statements, to present witnesses in their behalf, and to have a reasonable time to prepare their case. They waived those rights except the right to submit a statement with the understanding that if their resignation is accepted, they may be separated under either honorable conditions or conditions other than honorable. They also understand they may be furnished an Honorable or General Discharge Certificate, or Other than Honorable Conditions Discharge, as determined by Headquarters, Department of the Army.

(13) A memorandum, 807th Medical Command (Deployment Support), subject: Request for Resignation in Lieu of Involuntary Separation – [Applicant], dated 20 October 2017, the commanding general reviewed and carefully considered the documentation concerning the applicant's request for resignation in lieu of involuntary separation. The commanding general recommended to the U.S. Army Reserve Command approval of the applicant's request for resignation in lieu of involuntary separation and their characterization of service be General (Under Honorable Conditions).

(14) The Headquarters, Headquarters, U.S. Army Reserve Command Orders 18-162-00001, dated 11 June 2018, discharged the applicant from the USAR with the type of discharge as General (Under Honorable Conditions), effective 11 July 2018. Additional Instructions state the applicant has elected to Resign in Lieu of Involuntary Separation.

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

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

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Counsel Memorandum (Supplemental Statement in Concern of [Applicant])
- excerpts from their AMHRR to include – Service School Academic Evaluation Reports, Officer Evaluation Reports, Promotion Order, Assignment Order, Annual Training Order, and GOMOR with supporting documents
- Letter, reflecting their pre-military life accomplishment; military life and accomplishments; responses to their accusations; and post military activities
- Pictures, reflecting their allergic reaction and covered in hives

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, 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 135-175 (Separation of Officers) dated 29 December 2017, prescribed the policies, criteria, and procedures governing the separation of Reserve officers of the Army.

(1) An honorable discharge is a separation from the U.S. Army with honor. An officer will normally receive an Honorable characterization of service when the quality of the officer's service has met the standards of acceptable conduct and performance of duty, giving due regard to the grade held and the capabilities of the officer concerned.

(2) A General (Under Honorable Conditions) – an officer will normally receive a General (Under Honorable Conditions) characterization of service when the officer's military record is satisfactory but not sufficiently meritorious to warrant an Honorable discharge. A separation under honorable conditions will normally be appropriate when an officer submits an unqualified resignation in lieu of elimination for acts of misconduct or moral or professional dereliction or in the interest of National security, or under circumstances involving misconduct, unless an Under Other Than Honorable Conditions separation is appropriate.

(3) A Under Other Than Honorable Conditions – this characterization of service is limited to an officer with an approved involuntary separation under chapter 2 (Involuntary Separation) and chapter 3 (Dropped From the Rolls of the Army) of this regulation. An officer will normally receive an Under Other Than Honorable Conditions when the officer submits an unqualified in lieu of elimination for acts of misconduct or moral professional dereliction or in the

interest of National security; or is involuntarily separated due to misconduct, moral or professional dereliction, or for the final revocation of a security clearance.

(4) Paragraph 2-13 (Acts of Misconduct or Moral or Professional Dereliction) stated while not an all-inclusive list, existence of one of the following or similar conditions at the standard of proof required by Army Regulation 15-6 (Procedures for Investigating Officers and Boards of Officers) authorizes involuntary separation of an officer by the separation authority due to moral or professional dereliction.

(5) Section IV (Unqualified and Conditional Resignations in Lieu of Involuntary Separation) stated an officer who has been notified of the requirement to show cause for retention may submit an unqualified resignation, or a conditional resignation, when waiving the right to be considered by a board of officers or at any time prior to final action taken on the board proceedings. Commander will ensure that there is no element of coercion in connection with a resignation in lieu of involuntary separation and that the officer concerned is allowed at least 10 days after notification of impending involuntary separation to make a personal decision when resignation is completed. A resignation will automatically suspend involuntary separation action pending final action of the resignation.

e. General Officer Memorandum of Reprimand (GOMOR) is an administrative censure issued by a general officer for a failure to comply with established standards. A GOMOR can be given for any serious conduct that does not meet Army standards. Some examples include civilian criminal charges, inappropriate sexual relationships, or conduct, SHARP or EO violations, toxic leadership environment, etc.

(1) According to Army Regulation 600-37 (Unfavorable Information), a GOMOR may be filed in either the local file, officially known as your Military Personnel Record Jacket (MPRJ), or the Army Military Human Resource Record (AMHRR) (formerly the OMPF). GOMORs filed locally may remain for up to eighteen months or until you are reassigned to a new general court-martial jurisdiction, whichever is sooner. a GOMOR filed in a Soldier's AMHRR, regardless of the issuing authority, can only be filed upon the order of a general officer, or by direction of an officer having general court-martial jurisdiction over the Soldier.

(2) GOMORs filed in your AMHRR are permanently placed in the performance section and will likely adversely affect your military career in the future. When you receive a GOMOR, you are entitled to a reasonable time (usually seven days) to submit a written response. For officers, a GOMOR can also be a basis for separation.

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 receive a GOMOR for acts of misconduct and received notification of administrative separation for "Acts of Personal Misconduct" and "Conduct Unbecoming an Officer." The applicant requested Resignation in Lieu of Involuntary Separation and was discharged from the USAR. They completed 8 years, 3 months, 9 days net USAR service this period.

c. Army Regulation 135-175 (Separation of Officers) prescribed the policies, criteria, and procedures governing the separation of Reserve officers of the Army. An officer who has been notified of the requirement to show cause for retention may submit an unqualified resignation, or a conditional resignation, when waiving the right to be considered by a board of officers or at

any time prior to final action taken on the board proceedings. Commander will ensure that there is no element of coercion in connection with a resignation in lieu of involuntary separation and that the officer concerned is allowed at least 10 days after notification of impending involuntary separation to make a personal decision when resignation is completed. A resignation will automatically suspend involuntary separation action pending final action of the resignation.

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) In regard to the applicant contention that their AMHRR is void of a separation order from the USAR. A review of their AMHRR confirms it is void of a separation order; however, in the processing of this petition a copy of Headquarters, U.S. Army Reserve Orders 18-162-00001 was obtained and shows the applicant was discharged from the component Under Honorable Conditions (General), Soldier elected to Resign in Lieu of Involuntary Separation IAW AR 135-175, 2-13.

(2) The applicant contends there is a GOMOR in their AMHRR, and they do not believe the GOMOR was sufficient basis to justify their separation under any condition less than Honorable. In their rebuttal to the GOMOR they made several points that appear to be completely exculpatory to the allegations, and, in effect request their characterization of service be upgraded to honorable service.

The Board considered this contention and determined that the discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the applicant's discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. The applicant has exhausted all available appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. The applicant is responsible for satisfying the burden of proof and providing

documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service based on the following reasons. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. 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 that outweighed the applicant's misconduct (Acts of Personal Misconduct and Conduct Unbecoming an Officer). The majority vote board members stated that the statements from the applicant were not convincing and were inconsistent with the evidence. Based on a preponderance of evidence, the Board determined that 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 under the same pretexts, as the reason the applicant was discharged was both proper and equitable.

(3) As there were no RE-codes listed on the applicant's discharge paperwork, due to being in the Army Reserve, no upgrade actions are required.

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:

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