

1. Applicant's Name: [REDACTED]

- a. Application Date: 10 June 2021
- b. Date Received: 10 June 2021
- c. Counsel: None.

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

- a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade to honorable, and a narrative reason change.

The applicant seeks relief contending, in effect, that they were sexually harassed by the chaplain while they were in Advanced Individual Training. After reporting the sexual harassment to their superiors, an investigation was started. They waited several months for the investigation to progress, but it never did. While their company graduated AIT, they were left behind as a hold over due to the investigation and they were left in the same building as the chaplain. They lost hope, became depressed and chose to be AWOL to escape the unbearable situation. When they went AWOL charges against their abuser was dropped, and they were apprehended and discharged.

- b. **Board Type and Decision:** In a records review conducted on 18 July 2025, and by a 5-0 vote, the Board determined the discharge was inequitable and voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The reentry eligibility (RE) code will also change to code 3.

*Please see **Board Discussion and Determination** section for more detail regarding the Board's decision.*

3. DISCHARGE DETAILS:

- a. **Reason / Authority / Codes / Characterization:** In Lieu of Trial by Court Martial / AR 635-200, Chapter 10 / KFS / RE- 4 / UOTHC

- b. **Date of Discharge:** 13 March 2009

- c. **Separation Facts:** AMHRR

(1) **Date of Notification of Intent to Separate:** N/A

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

(3) **Recommended Characterization:** UOTHC

(4) **Legal Consultation Date:** 12 January 2009

(5) **Administrative Separation Board:** N/A

(6) **Separation Decision Date / Characterization:** 23 February 2009 / UOTHC

4. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 9 April 2008 / 4 years.
- b. Age at Enlistment / Education / GT Score:** 18 / GED / 115
- c. Highest Grade Achieved / MOS / Total Service:** E-2 / None / 8 months, 21 days.
- d. Prior Service / Characterizations:** None.
- e. Overseas Service / Combat Service:** None.
- f. Awards and Decorations:** None.
- g. Performance Ratings:** N/A
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) A Military Police Report dated 28 September 2008 provides the applicant notified the station of an assault on 19 September 2008. The incidents occurred on 16 September and 18 September 2008.

(2) A Personnel Action Document provides that the applicant's duty status changed from present for duty (PDY) to AWOL on 22 October 2008. On 22 November 2008 they were dropped from rolls (DFR).

(3) The applicant's duty status changed from DFR to PDY on 6 January 2009. They were apprehended by civilian authorities and returned to military control.

(4) A DD Form 458 (Charge Sheet) shows that on 12 January 2009 the applicant was charged with violating Article 86 of the Uniform Code of Military Justice (UCMJ); without authority the applicant was absent from their organization located in Fort Sam Houston, TX from 22 October 2008 – 6 January 2009.

(5) On 12 January 2009 the applicant consulted with counsel and voluntarily requested a discharge in lieu of trial by court-martial.

(6) On 4 February 2009 the chain of command at Fort Knox, Kentucky recommended approving the applicant's discharge request, with an Under Other Than Honorable Conditions characterization of service.

(7) On 23 February 2009 the applicant's request for discharge in lieu of trial by court-martial was approved by the appropriate approving authority with an Under Other than Honorable Conditions characterization of service.

i. Lost Time / Mode of Return: AWOL; 20081022 – 20090105 / Apprehended by civil authorities.

j. Behavioral Health Condition(s): None.

(1) Applicant provided:

(2) AMHRR Listed:

5. APPLICANT-PROVIDED EVIDENCE: An online DD Form 293 (Record Review) application.

6. POST SERVICE ACCOMPLISHMENTS: None submitted in support of their application.

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

a. 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.

b. Multiple Department of Defense 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), 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.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) provides the basic authority for the separation of enlisted personnel. Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(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. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(3) An under other-than-honorable-conditions discharge is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct. In a case in which an UOTHC is authorized by regulation, a member may be awarded an honorable or general discharge, if during the current enlistment period of obligated service, they have been awarded a personal decoration or if warranted by the circumstances of a specific case.

(4) 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 data 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.

e. 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.

f. Army Regulation 630-10 (Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings) provides policies and procedures for reporting unauthorized absentees and deserters, the administering of absent without leave (AWOL) personnel and deserters, returning absentees and deserters to military control and the surrendering of military personnel to civilian law enforcement authorities.

(1) When a soldier returns from an absence that is or appears to be unauthorized, the unit commander informally investigates whether disciplinary action should be taken and if the soldier should be charged with time lost.

(2) Classification of an absence is dependent upon such factors as the following

- Orders and instructions, written and oral, the Soldier received before and during the absence.
- Age, military experience, and general intelligence of the soldier.
- Number and type of contact the soldier had with the military while absent.
- Complete or incomplete results of a court-martial decision, if any.

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 of trial by court martial.

h. 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 waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

- 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.

- 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.
- 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.
 - i. Manual for Courts-Martial (2005 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued there under, 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 orders and discipline in the Armed Forces.
 - Article 86 (Absence without leave: More than 30 days and terminated by apprehension) states punishment consists of a dishonorable discharge, or a bad conduct discharge, forfeiture of all pay and allowances and confinement for 18 months.

8. SUMMARY OF FACT(S): 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. The applicant's DD Form 214 indicates that they received an under other than honorable conditions (UOTHC) discharge, this discharge is normally appropriate for a soldier who voluntary requests discharge in lieu of trial by courts-martial, CH 10.

b. Based on the available evidence the applicant enlisted in the Army at the age of 18, while in AIT they reported that they were assaulted to military authorities. The accused was a Captain in the Army. One month after reporting the assault, the applicant was AWOL. They were AWOL for 2 months and 15 days when they were apprehended by civil authorities. The applicant was subsequently charged with violating Article 86 of the UCMJ, they voluntarily requested to be discharged ILO trial by court-martial. A medical and mental examination was not required for a voluntary request ILO trial by court-martial; however, the applicant could have requested an examination.

c. The applicant contends they were sexually harassed by the chaplain, and they went AWOL to escape the situation they were in. Evidence indicates the applicant reported they were assaulted on 19 September 2008, the accused was a Captain in the Army. The applicant was kissed on their neck and cheek against their will, additionally the accused placed the applicant's hand on their lap numerous times and made several attempts requesting the applicant to join them for dinner. One month later the applicant was AWOL from 22 October 2008 – 6 January 2009.

d. Army Regulation 635-200 states a 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 discharged 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.

e. 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? **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/experiences: Adjustment Disorder with Mixed Emotional Features progressing to Acute Stress Disorder (initial form of PTSD) and Depressive Disorder secondary to MST.

(2) Did the condition exist, or experience occur during military service? **Yes.** Adjustment Disorder with Mixed Emotional Features progressing to Acute Stress Disorder (initial form of PTSD) and Depressive Disorder secondary to MST.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given the trauma occurred prior to the misconduct and nexus between trauma and avoidance, the basis for separation is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's condition or experience outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None.

c. Response to Contention(s): None

d. The Board determined the discharge was inequitable and voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The reentry eligibility (RE) code will also change to code 3.

e. Rationale for Decision:

(1) The Board determined the discharge is inequitable based on the applicant's MST outweighing the applicant's misconduct, AWOL. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable, changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial

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Authority, with a corresponding separation code of JFF. The Board voted to change the applicant's RE code to RE-3. The Board also voted to upgrade the narrative reason to Secretarial Authority acknowledging the contentions of harassment by superiors, being left in the barracks with the person who was responsible for the harassment, and a founded CID report that substantiated the applicant's allegations of harassment.

(2) The Board voted to change the applicant's narrative reason for discharge to Secretarial Authority, with a corresponding separation code to JFF, as the reason the applicant was discharged was both improper and inequitable.

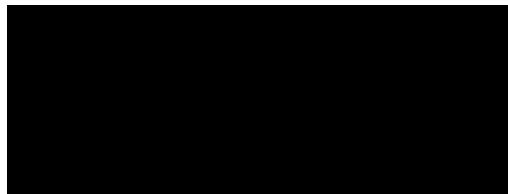
(3) The RE code will change to RE-3.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** Secretarial Authority / JFF
- d. Change RE Code to:** RE-3
- e. Change Authority to:** AR 635-200

Authenticating Official:

7/22/2025



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