

1. Applicant's Name:

- a. **Application Date:** 14 September 2021
- b. **Date Received:** 14 September 2021
- c. **Counsel:** None

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

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

(1) The applicant states, in effect, their discharge was unfair and unjust. They were facing being court-martialed due to allegations of domestic violence. Although the applicant provided evidence to show it was not their spouse who was abused, but the spouse was abusing them verbally and emotionally. There were multiple spousal accusations through their time in service, however, all the cases were dropped. There was also evidence of ulterior motives in the action that was taken against the applicant. Their spouse continued this behavior post-service, where the applicant was reported to Child Protective Services with all the findings reported to be false.

(2) They sustained major injuries while serving, with some of the injuries occurring during their initial enlistment period, but not fully presenting until after they reenlisted, this includes post-surgical effects on their hip; injuries that continue to impact them to date. The behavior and treatment they endured from their spouse has had lasting effects on the applicant's behavioral health and instead of receiving treatment, they were separated from the service. The applicant has limited employability and unable to claim their disabilities through the VA due to the characterization of service received although their records show they served with dedication, pride, and honor.

b. **Board Type and Decision:** In a records review conducted on 31 January 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 15 July 2020

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** NIF

(2) **Basis for Separation:** The applicant was facing Trial by General Court martial for violating of Article 128 (assault) and 134 (general offenses). The applicant voluntary requested discharge under provision of AR 635-200, Chapter 10, in lieu of trial by court-martial

(3) **Recommended Characterization:** NIF

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NIF

(6) Separation Decision Date / Characterization: 2 JULY 2020 / UOTHC

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 24 January 2017 / 3 years, 5 months, 22 days

b. Age at Enlistment / Education / GT Score: 18 / Associate Degree / 115

c. Highest Grade Achieved / MOS / Total Service: E-5 / 68W20 Healthcare Specialist / 7 Years 13 Days.

d. Prior Service / Characterizations: AD, 2 July 2013 – 23 January 2017 / Continuous honorable service.

e. Overseas Service / Combat Service: Germany / None

f. Awards and Decorations: ARCOM, AAM-2, ASUA, AGCM, NDSM, GWTSM, MOVSM, ASR, OSR, COA-5, DMB-DMV, MQBSS-5

g. Performance Ratings: 1 August 2018 – 31 July 2019 / Highly Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) A memorandum, U.S. Army Health Clinic Ansbach, subject: Family Advocacy Case Review Committee (CRC) Incident Determination, dated 15 April 2016, provides the applicant was the identified offender in an incident alleging adult physical abuse. CRC determined the incident did not meet criteria for physical abuse.

(2) A Law Enforcement Report dated 17 May 2016 provides on 1 April 2006 the applicant was in a verbal altercation with their spouse, the applicant "shoulder checked" their spouse which resulted in their spouse falling to the ground. The applicant rendered a sworn statement and admitted to the offense. The applicant was charged with assault consummated by a battery; Guilty and Spouse Abuse; Not Guilty; their punishment consisted of 10 days of extra duty.

(3) A Law Enforcement Report dated 1 June 2016 provides on 13 May 2016 the applicant was in a verbal altercation with their spouse, things turned physical when the applicant slammed their spouse to the ground causing them to receive a bruise above their right eye. The applicant rendered a sworn statement denying the offense. It was opined that there were probable cause to believe the applicant committed the offense and opined that the applicant committed the offense of communicating a threat. The applicant was charged with assault consummated by a battery; Guilty and Communicating a threat; Not guilty and Spouse Abuse; Not guilty. The applicant received an NJP; punishment consisted of 10 days of extra duty

(4) A memorandum U.S. Army Health Clinic Ansbach, subject: Disqualification of the Army Good Conduct Medal dated 22 August 2016, provides the applicant was disapproved for the award due to a Summarized Article 15 for violation of the Uniform Code Military Justice (UCMJ) article 128 (Assault) during the active-duty period 02 July 2013 – 02 July 2016. Void of

the applicant's signature with a notation on the bottom of this form, "Soldier on con [convalescent] leave for next 6-8 weeks."

(5) An Enlistment/ Reenlistment Document provides that the applicant reenlisted in the United States Army at the rank of specialist (E-4) for a period of 4 years on 24 January 2017.

(6) A Service School Academic Evaluation Report dated 16 July 2017, provides the applicant was released from the Basic Leader Course for administrative reasons/unit requested release. On 25 May 2018, the applicant participated in the Basic Leader Course at the Non-Commissioned Officer Academy, they achieved course standards and demonstrated superior abilities.

(7) The Enlisted Record Brief (ERB) provides that the applicant was promoted to the rank of sergeant (E-5) on 01 August 2018.

(8) A Statement of Trial Results Findings Worksheet shows that on 2 July 2020 it was announced that applicant was charged with violating two Articles of the Uniform Code of Military Justice (UCMJ).

- Charge I, Article 128 (Assault) – 10 Specifications. Five specifications of assault occurred on or near Fort Bliss, Texas between 02 January 2018 – 2 September 2019; Additionally, five specifications of assault occurred at or near U.S Army Garrison, Ansbach, Germany between 01 April 2016 – 08 August 2016
- Charge II, Article 134 (General Offenses) – Specification. On/about 13 May 2016 wrongfully communicate a threat to wit, such conduct being of nature to bring discredit upon the armed forces.

(9) A Statement of Trial Results dated 14 July 2020, provides the court-martial proceedings were terminated after the applicant voluntarily requested discharge ILO Trial by Court-Martial on 14 May 2020 with a statement of support referencing their outstanding performance and work ethic which were provided by their prior Brigade Commander, commanding in Ansbach, Germany. The AMHRR is void of the voluntary request to be discharged in Lieu of Trial by Court Martial.

(10) A Department of the Army, Headquarters Division, Fort Bliss, Texas Memorandum provides that on 2 July 2020, the appropriate authority approved the voluntary request to be discharged in Lieu of Trial by Court Martial with a characterization of service of UOTHC, reduction to the lowest enlisted grade, and a directive that the applicant was to be discharged without a separation physical or mental examination unless a written request for such was submitted.

(11) A DD Form 214 shows on 11 October 2013 the applicant was discharged accordingly, they completed total active service of 4 years and 11 months and 14 days.

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

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

(1) **Applicant provided:** None

(2) AMHRR Listed: A memorandum dated 15 April 2016 from the Family Advocacy Program (FAP) recommended the applicant to continue behavioral health treatment.

5. APPLICANT-PROVIDED EVIDENCE: A DD Form 293 (Discharge Review) online application, associate degree certificate, NCO evaluation report, a DD Form 1059; shows the applicant achieved Basic Leader Course standards with an overall average of 94%, a certificate of achievement and 15 enclosures in support of their application.

- A memorandum from their Brigade Commander to the Separation Authority, with a detailed overview of the applicant's superior accomplishments and work ethic, requesting the approval authority consider a general, under honorable conditions characterization of service.
- A letter, Department of Family and Protective Services, provides that an investigation of alleged abuse/neglect was reported on 19 May 2019 with findings that the alleged abuse/neglect did not occur.
- A letter, Family Advocacy Case Review Committee Incident Determination dated 15 April 2016, shows that an allegation of adult physical abuse did not meet the criteria for physical abuse.
- 11 Pages of photos/screenshots of text messages, and images
 - A screenshot of a message thread shows the alleged accuser stated "I have borderline personality disorder.... makes me controlling and manipulative and I lie a lot to get what I want.... I always controlled everything (applicants name) did and he hated it."
 - A screenshot of a text message thread shows that the alleged accuser was upset that their calls or messages were not being answered and stated "This isn't a F___ joke. I'll ruin your F___ career."
 - A screenshot of a text message thread shows the alleged accuser stated "... I'll make sure your life is H___".
 - A screenshot of a text message thread provides that the alleged accuser was upset that the applicant filed for divorce.

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 provides the basic authority for the separation of enlisted personnel.

(1) An Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(2) A General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(3) 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.

(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 was authorized, an under other than honorable conditions discharge was 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 will accompany the request for discharge:

- A copy of the court-martial 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 their 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.

(5) 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.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "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.

f. Army Regulation 601-210, Regular Army, and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment

per 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:

- 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.

g. Manual for Courts-Martial (2019 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 128 (assault): The maximum punishment is increased when assault consummated by a battery is committed upon an immediate family member, spouse or intimate partner.
 - Simple assault; confinement for 3 months and forfeiture of two-thirds pay per month for 3 months.
 - Assault consummated by a battery. Bad conduct discharge, forfeiture of all pay and allowances, and confinement for 6 months
- Article 134 (General Article): The proof required for conviction of an offense depends upon the nature of the misconduct charged. If the conduct is punished as a crime or offense not capital, the proof must establish every element of the crime or offense as required by the applicable law. All offenses under Article 134 require proof of a single terminal element.

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 general. The applicant's DD Form 214 provides that the applicant received a Under Other than Honorable (UOTHC) characterization of service which is appropriate for a soldier who voluntary requests discharge in lieu of trial by court-martial.

b. Based on the available evidence, the applicant joined the Army at the age of 18, they spent 34 months of their 7 years in the Army stationed in Germany on a tour that ended 08 August 2017. Additionally, the applicant successfully completed the Basic Leader Course with

superior ratings, received their associate degree graduating Magna Cum Laude and was promoted to sergeant 01 August 2018. The applicant married another service member 26 January 2016 and documents provide that the first allegation of physical abuse occurred on 1 April 2016.

c. Based on the nature of the applicant's statement and contentions, the available evidence provides at some point in 2016, during their initial enlistment period something [medical] occurred that resulted in them being on convalescent leave for 6-8 weeks. The applicant was disqualified from receiving the AGCM due to receiving a NJP for violating Article 128 (assault); the applicant was found guilty of assault consummated by a battery; offenses that occurred on 1 April 2016 and 13 May 2016. The applicant was found not guilty of spouse abuse (1 April 2016 incident) additionally, they were found not guilty of communicating a threat, and spouse abuse regarding; offenses that occurred on 13 May 2016.

d. The Statement of Trial Results shows the applicant was charged with ten specifications of violating Article 128 (assault), the specifications occurred during calendar years 2016, 2018 and 2019. Additionally, the applicant was charged with one specification of violating Article 134 (general offense) on 13 May 2016. As a result, the applicant voluntarily requested to be discharged In Lieu of Trial by Court-Martial, documents provide that the request was approved on 02 July 2020. Six of the specifications of violations occurred in 2016, at which the applicant was found "not guilty" in 2016 and received a NJP for the offenses they were presumed guilty of. The applicant was discharged in 2020.

- Article 128, 5 specifications. Unlawfully shove of the body with hand, unlawfully slam of the hand on the ground with hand, unlawfully slam head into the ground with hand, unlawfully grab on the neck with hand, unlawfully grab on the arm with hand. Incidents occurred between 01 April 2016 – 08 August 2016 on or near Ansbach, Germany.
- Article 128, 5 specifications; unlawfully grab on the neck with hand, unlawfully push into the door with hand, unlawfully strangle spouse-2 and unlawfully push on the shoulders with hand. Incidents occurred between 20 January 2018 – 02 September 2019 on or near Fort Bliss, Texas.
- Article 134, wrongfully communicate a threat "get out of the way, you remember what happened last time" or words to that effect at or near Ansbach, Germany on 13 May 2016.

e. The AMHRR is void of the issuance of the NJP for violation of Article 128. Evidence provide that the applicant possibly received the NJP between 05 August 2016 – 22 August 2016. The Trial Results Findings Worksheet provide that in 2020 the applicant was charged with 5 violations of assault between 01 April 2016 – 08 August 2016. Evidence provides these assaults were previously adjudged on 5 August 2016 and 8 August 2016.

f. The applicants AMHRR has administrative irregularities concerning the events which led to the discharge from the Army. The applicants AMHRR does not contain a Charge Sheet (DD Form 458), chain of command endorsement(s) regarding the characterization of service. The AMHRR does not contain the written request of the applicant voluntary requesting a discharge ILO Trial by Court-Martial, additionally, there are no documentation to support if they consulted with legal counsel before voluntarily requesting a separation.

g. A medical and mental examination was not required for a voluntary request ILO Trial by Court-Martial; however, they could have been requested by the applicant. The Applicant OMPF is void of evidence indicating whether the applicant requested either examination.

h. 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.

i. 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 [REDACTED] 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: the applicant was diagnosed in-service with Dysthymic Disorder and Adjustment Disorder with several IPV events. Post-service, he is service connected for Major Depressive Disorder (MDD). However, the VA initially marked MST/IPV with PTSD diagnosis; these could be applied irrespective of the updated eval removing the MST and PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant was diagnosed in-service with Dysthymic Disorder and Adjustment Disorder with several IPV events. Post-service, he reported a MST.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that in-service records show the applicant was an IPV offender, solely or bidirectional, supporting the assault charges. While discussion of threatening is not within the medical records, the applicant admitted to this when requesting a Chapter 10. Although the VA marked MST during the first C&P, there is no indication one-time asserted spousal MST contributed to the chronic IPV events. Additionally, there is no indication the MST by another Soldier influenced IPV with his spouse.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Dysthymic Disorder and Adjustment Disorder with several IPV events, Major Depressive Disorder (MDD) or MST or PTSD outweighed the offenses of assault consummated by battery, applicant was the offender in IPV incidents.

b. Response to Contention(s):

(1) The applicant contends they provided evidence during the Court-Martial proceedings that their accuser was abusing them verbally and emotionally, and that they had evidence of ulterior motives in the actions taken against them. Evidence provided by the applicant shows alleged expletive messages from the accuser, with one message stating, "I will ruin your F___ career". The Board considered this contention and found the discharge proper and equitable based on the applicant's misconduct of IPV offenses.

(2) The applicant contends that they sustained major injuries that impact them daily during their time in service that they are unable to claim with Veteran Affairs because of the UOTHC to include post-surgical hip issues, with all other injuries showings signs during their honorable service but not fully presenting until the period of the UOTHC. Evidence provides that the applicant was on convalescent leave following a medical procedure. The criteria used by the VA in determining whether a former servicemember is eligible for benefits are different than that used by the Army when determining a member's discharge characterization. After liberally considering all the evidence, including the VA determination, the Board found that the applicant had an unmitigated basis for separation.

(3) The applicant contends the behavior from the accuser has caused lasting effects on their mental health, they were kicked out instead of receiving treatment although their documentation shows that they served with dedication, pride and honor. The available evidence provides, that applicant may have been enrolled in behavioral health at one point. Additionally, evidence provides that the applicant had superior qualifications at the Basic Leader Course, received highly qualified rating on their Non-Commissioned Evaluation report and a character letter from their previous Brigade commander highlighting their work ethic and performance.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. However, the applicant may request a personal appearance hearing to address the issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service because, despite applying liberal consideration to all the evidence before the Board, the applicant's Dysthymic Disorder and Adjustment Disorder with several IPV events, Major Depressive Disorder (MDD) or MST or PTSD did not outweigh the applicant's medically unmitigated assault consummated by battery offense. 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 Under Other Than Honorable Conditions discharge was proper and equitable as the applicant's conduct fell below that level of satisfactory service warranting a General discharge or meritorious service warranted for an upgrade to Honorable discharge.

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

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

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: No
- 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:

2/8/2024

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