

1. Applicant's Name:

- a. **Application Date:** 9 July 2021
- b. **Date Received:** 15 July 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 general (under honorable conditions). The applicant requests an upgrade to honorable along with a separation program designator (SPD) code and a narrative reason change.

The applicant seeks relief contending, in effect, the applicant's post-traumatic stress disorder (PTSD) drastically affected the applicant's decision making and inhibited the applicant's ability to present a defense in the case. Prior to the isolated event which led to the discharge, the applicant had no disciplinary incidents. Since the applicant's PTSD diagnosis, the applicant has received adequate treatment to assist in the applicant's recovery. The applicant has attended college and earned a commercial pilot's license. The applicant is member of an organization which assist minorities and women with the opportunity to seek careers in aviation.

b. **Board Type and Decision:** In a records review conducted on 17 July 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

Please see Section 9 of this document for more detail regarding the Board's decision.

(Board member names available upon request)

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Unacceptable Conduct / AR 600-8-24 / JNC / NA / General, Under Honorable Conditions

b. **Date of Discharge:** 17 December 2018

c. Separation Facts:

- (1) **Date of Notification to appear before a Board of Inquiry:** NIF
- (2) **Basis for Separation:** NIF
- (3) **Board of Inquiry (BOI):** NIF
- (4) **Legal Consultation Date:** NIF
- (5) **GOSA Recommendation Date / Characterization:** NIF
- (6) **DASA Review Board Decision Date / Characterization:** NIF

4. SERVICE DETAILS:

- a. **Date / Period of Appointment:** 14 July 2016 / Indefinite
 - b. **Age at Appointment / Education:** 30 / 1 year college
 - c. **Highest Grade Achieved / MOS / Total Service:** WO1 / 153M0 UH-60M Pilot / 14 years, 5 months, 9 days.
 - d. **Prior Service / Characterizations:** RA, 25 January 2005 – 22 April 2005 / UNC (IADT) USAR, 24 July 2006 – 5 May 2016 / HD
 - e. **Overseas Service / Combat Service:** None
 - f. **Awards and Decorations:** MSM, ARCOM, AAM, AGCM-3, NDSM, GWOTSM, NCOPDR-3, ASR, MOVSM
 - g. **Performance Ratings:** NIF
 - h. **Disciplinary Action(s) / Evidentiary Record:**
 - (1) GOMOR, undated, reflects the applicant was reprimanded for violating the USAACE Leave and Pass Policies, violating the Army Regulation 600-8-10, and engaging in an adulterous relationship.
 - (2) Memorandum, subject: [Applicant], 16 November 2017, reflects after investigating the allegation, based on a preponderance of the evidence, it was found the applicant did engage in a romantic and inappropriate relationship; committed adultery; violated the USAACE Leave and Pass Policies; traveled outside of the United States without authorization; and made a false official statement. It was recommended the applicant be issued a GOMOR and be eliminated from flight school.
 - i. **Lost Time / Mode of Return:** None
 - j. **Behavioral Health Condition(s):**
 - (1) **Applicant provided:** The applicant provides a letter from the Department of Veteran Affairs, 9 July 2021, which reflects, in part, the applicant has a combined service-connected evaluation of 100-percent. The nature of the applicant's disabilities is not listed.
 - (2) **AMHRR Listed:** None
- 5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293, Letter from the Department of Veteran Affairs, OBAP Membership, College Transcript, Commercial Pilot Certificate
- 6. POST SERVICE ACCOMPLISHMENTS:** The applicant has attended college and earned a commercial pilot's license, and the applicant is member of an organization which assist minorities and women with the opportunity to seek careers in aviation.
- 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 600-8-24, Officer Transfers and Discharges, sets forth the basic authority for the separation of commissioned and warrant officers. Chapter 4 outlines the policy and procedure for the elimination of officers from the active Army for substandard performance of duty, misconduct, moral or professional dereliction, and in the interest of national security. A discharge of honorable, general, or under other than honorable conditions characterization of service may be granted.

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 "JNC" as the appropriate code to assign to officers who are discharged under the provisions of Army Regulation 600-8-24, Chapter 4-2b, unacceptable conduct.

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

The applicant requests an upgrade to honorable along with an SPD code, and narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's service AMHRR is void of the complete facts and circumstances concerning the events which led to the discharge from the Army. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) indicates the applicant was discharged under the provisions of Army Regulation 600-8-24, by reason of Unacceptable Conduct, with a characterization of service of general (under honorable conditions).

The applicant contends the applicant's PTSD drastically affected the applicant's decision making and inhibited the applicant's ability to present a defense in the case. The applicant's AMHRR is void of a PTSD diagnosis. The applicant provides a letter from the Department of Veteran Affairs, 9 July 2021, which reflects, in part, the applicant has a combined service-connected evaluation of 100-percent. The nature of the applicant's disabilities is not listed.

The applicant contends prior to the isolated event which led to the discharge, the applicant had no disciplinary incidents. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant states since the PTSD diagnosis, the applicant has received adequate treatment to assist in the applicant's recovery. The applicant has attended college and earned a commercial pilot's license. The applicant is member of an organization which assist minorities and women with the opportunity to seek careers in aviation. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

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 diagnosis: PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found per the applicant's assertion alone, PTSD symptoms in-service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there is no indication the applicant's condition influenced the misconduct. Additionally, trauma is unrelated to the basis for separation.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all evidence before the Board, the ADRB determined that the condition did not outweigh the basis for separation.

b. Response to Contention(s):

(1) The applicant contends the applicant's PTSD drastically affected the applicant's decision making and inhibited the applicant's ability to present a defense in the case. The Board considered this contention and determined the applicant's PTSD diagnosis does not have a nexus with the applicant's violation of leave policy and adultery, therefore the PTSD diagnosis does not excuse or mitigate the misconduct of violation of leave policy and adultery. The Board determined the discharge is proper and equitable.

(2) The applicant contends prior to the isolated event which led to the discharge, the applicant had no disciplinary incidents. The Board considered this contention and determined the applicant's basis for separation is not due to an isolated incident. The applicant's violation of leave policy and adultery occurred over the course of 30 or more days.

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 of all the evidence before the Board, the applicant's PTSD did not excuse or mitigate the offenses of violating the leave policy and adultery. The Board also considered the applicant's contention regarding an isolated incident and found that based on a preponderance of evidence, the applicant engaged in multiple acts of misconduct (engaged in a romantic and inappropriate relationship, committed adultery, violated the USAACE Leave and Pass Policies, traveled outside the United States without authorization, and made a false official statement). The Board determined the totality of the misconduct did not warrant a discharge upgrade. The discharge was consistent with the procedural and substantive requirements of the

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210015035

regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the applicant's General discharge was proper and equitable as the applicant's misconduct fell below that level of 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 reasons, 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:

8/7/2024

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