

1. Applicant's Name: [REDACTED]**a. Application Date:** 20 July 2021**b. Date Received:** 27 July 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 did not properly annotate the enclosed application requesting a possible discharge upgrade. The Army Discharge Review Board considered the applicant for a possible upgrade as instructed in pertinent part by Department of Defense Instruction 1332.28, which stipulates a request for review from an applicant without an honorable discharge shall be treated as a request for a change to an honorable discharge unless the applicant requests a specific change to another character of discharge.

The applicant seeks relief contending, in effect, the applicant was faced reprisal for speaking up against sexual assault and the applicant also faced sexual harassment. The applicant further faced toxic leadership and was snubbed from commissioning and receiving the Soldier's Medal.

b. Board Type and Decision: In a records review conducted on 16 April 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (MST). Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General (under honorable conditions). The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

Please see Section 9 of this document 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 / Under Other Than Honorable Conditions

b. Date of Discharge: 17 March 2021**c. Separation Facts:**

(1) Date DD Form 458 (Charge Sheet): 5 March 2021, reflects the applicant behaved with disrespect towards a commissioned officer on three separate occasions; the applicant disobeyed a lawful order on two separate occasions; the applicant wrongfully used marijuana on two separate occasions; the applicant wrongfully communicated a threat towards noncommissioned officers on three different occasions; on or about 1 February 2021, the applicant committed indecent conduct ; and on or about 2 March 2021, the applicant was disorderly.

(2) Legal Consultation: NIF**(3) Basis for Separation:** NIF

(4) Recommended Characterization: NIF

(5) Separation Decision Date / Characterization: NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 4 October 2017 / 5 years

b. Age at Enlistment / Education / GT Score: 21 / Baccalaureate Degree / 117

c. Highest Grade Achieved / MOS / Total Service: E-5 / 68E10, Dental Specialist / 7 years, 6 months, 28days

d. Prior Service / Characterizations: RA, 20 August 2013 – 3 October 2017 / HD

e. Overseas Service / Combat Service: None

f. Awards and Decorations: ARCOM-2, AAM-9, AGCM-2, NDSM, GWOTSM, NCOPDR, ASR, COA-6

g. Performance Ratings: 20 July 2017 – 31 December 2017 / Highly Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) FG Article 15, 27 August 2019, reflects the applicant wrongfully used marijuana on or about 8 March 2019 and between on or about 8 April 2019. The punishment consisted of reduction to specialist/E-4; forfeiture of \$1,277 pay, suspended, to be automatically remitted if not vacated on or before 12 November 2019; extra duty for 30 days; and an oral reprimand.

(2) A search of the Army criminal file indexes found no records pertaining to the applicant.

(3) See Charge Sheet as described in item 3c(1).

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, email, medical documents

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the 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) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states 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.

(3) Paragraph 3-7b states 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.

(4) Paragraph 3-7c states 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.

(5) Chapter 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

(6) Paragraph 10-8a stipulates a discharge under other than honorable conditions is normally 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. (See chap 3, sec II).

(7) Paragraph 10b stipulates 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.

(8) 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.

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 did not properly annotate the enclosed application requesting a possible discharge upgrade. The Army Discharge Review Board considered the applicant for a possible upgrade as instructed in pertinent part by Department of Defense Instruction 1332.28, which

stipulates a request for review from an applicant without an honorable discharge shall be treated as a request for a change to an honorable discharge unless the applicant requests a specific change to another character of discharge. 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 his discharge from the Army. The applicant's record does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty). The applicant's DD Form 214 indicated the applicant was discharged under the provisions of AR 635-200, paragraph 10, by reason of In Lieu of Trial by Court-Martial, with a characterization of service of Under Other Than Honorable Conditions.

The applicant contends the applicant was faced reprisal for speaking up against sexual assault and the applicant also faced sexual harassment. The applicant further faced toxic leadership and was snubbed from commissioning and receiving the Soldier's Medal. A search of the Army criminal file indexes found no records pertaining to the applicant. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment. The applicant's AMHRR is void of evidence pertaining to the applicant's commissioning or award of the Soldier's Medal.

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 asserts MST, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant states a MST event occurred while in military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has an underlying severe psychiatric condition, Schizophrenia-spectrum disorder, which mitigates most of his misconduct. Record review indicates that the applicant exhibited symptoms consistent with an underlying psychotic condition while on active duty, manifested by a significant decline in function, tangentiality, paranoid ideation and some looseness of associations. This pattern of behavior, in combination with his significant decline in functioning, indicate that it is more likely than not that the applicant was suffering from an undiagnosed psychotic condition just prior to and during his period of misconduct which likely influenced his behavior and subsequent misconduct. The applicant has also been diagnosed with Chronic PTSD according to the documentation he provided. However, as this documentation does not indicate the date of onset of his traumatic stressor or the nature of his criterion A traumatic stressor, no decision regarding medical mitigation can be made. Finally, the applicant has indicated he was the victim of MST while on active duty. Record review indicates that there is no documentation of any MST event in which the applicant was identified as the victim. However, as the applicant self-asserts this condition, it merits consideration by the board. [Adjustment DO with anxiety is subsumed under psychosis diagnosis.]

(4) Does the condition or experience outweigh the discharge? **Partial.** Based on liberally considering all the evidence before the Board, the ADRB determined that the experience partially outweighed the basis of separation.

b. Prior Decisions Cited: None

c. Response to Contention(s): The applicant contends the applicant faced reprisal for speaking up against sexual assault and the applicant also faced sexual harassment. The applicant further faced toxic leadership and was snubbed from commissioning and receiving the Soldier's Medal.

The Board considered this contention but found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to show that the command acted in an arbitrary or capricious manner, other than the applicant's contention.

d. The Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (MST). Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General (under honorable conditions). The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

e. Rationale for Decision:

(1) The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board concurred with the conclusion of the medical advisor that the Board can consider the applicant's MST experiences in deliberating and the applicant has an underlying severe psychiatric condition, Schizophrenia-spectrum disorder, which mitigates most of his misconduct. Based on a preponderance of evidence, the Board determined the reason for the applicant's separation was inequitable and decided to upgrade the discharge to General (Under Honorable Conditions).

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

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(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: Yes
- b. Change Characterization to: General, Under Honorable Conditions
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

Authenticating Official:

4/23/2025



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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs