

1. Applicant's Name:

- a. **Application Date:** 4 June 2021
- b. **Date Received:** 7 June 2021
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is under than honorable conditions. The applicant requests an upgrade of their character of service.

(2) The applicant seeks relief contending, their offense was directly related to an undiagnosed service connected disability. They have been working through the Department of Veterans Affairs (VA) to manage and improve their condition.

b. Board Type and Decision: In a records review conducted on 31 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: Misconduct, (Serious Offense) / Army Regulation 635-200, Paragraph 14-12C / JKQ / RE-3 / Under Other Than Honorable Conditions

b. Date of Discharge: 9 November 2011

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 29 September 2011

(2) Basis for Separation:

- on 2 May 2011, received a Field Grade Article 15, Uniform Code of Military Justice (UCMJ) for missing movement and being in an absent without leave (AWOL) status
- on 11 August 2011, received a Field Grade Article 15, UCMJ for failure to report, disrespect to a noncommissioned officer (NCO) and making a false official statement
- issued a general officer memorandum of reprimand (GOMOR) for driving under the influence on 28 May 2011
- Army Regulation 15-6 Investigation found them guilty of impersonating a NCO, wearing insignia, decorations, badges, ribbons, and devices on their uniform that they were not authorized and for making a false official statement

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: 4 October 2011

(5) Administrative Separation Board: On 4 October 2011, the applicant elected to waive consideration of their case by an Administrative Separation Board.

(6) Separation Decision Date / Characterization: 18 October 2011 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 9 July 2008 / 4 years, 15 weeks

b. Age at Enlistment / Education / GT Score: 21 / Secondary HS / 115

c. Highest Grade Achieved / MOS / Total Service: E-4 / 13B1O, Fire Support Specialist / 3 years, 9 days

d. Prior Service / Characterizations:

- USAF National Guard, 10 July 2004 – 5 December 2005 / Entry Level
- AD, 17 August 2004 – 6 October 2004 / Honorable
(Concurrent Service)

e. Overseas Service / Combat Service: SWA / Afghanistan (14 July 2010 – 31 July 2011)

f. Awards and Decorations: ACM-CS, GWTSM, ASR, OSR, NATOMDL / The applicant's AMHRR reflects award of the NDSM, however, the award is not reflected on the DD Form 214.

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) reflects the applicant was separated from the Air National Guard and as a reserve of the Air Force on 5 December 2005. The NGB Form 22 reflects in –

- item 4 (Date of Enlistment) – 10 July 2004
- item 23 (Authority and Reason) – Entry Level Performance and Conduct
- item 24 (Character of Service) – Entry Level
- item 26 (Reenlistment Eligibility) - Ineligible

(2) Two DA Forms 4187 (Personnel Action) dated 6 April 2009 and 20 April 2009, reflects that applicant's duty status changed from Present For Duty to AWOL on 14 February 2009 and from AWOL to Dropped from Rolls on 17 March 2009.

(3) A DD Form 616 (Report of Return of Absentee) dated 16 May 2009, reflects the applicant was apprehended by civil authorities on 15 May 2009.

(4) Two DA Forms 4187, dated 14 March 2011 and 17 March 2011, reflects the applicant's duty status changed from Present For Duty to AWOL on 26 February 2011 and from AWOL to Present for Duty on 13 March 2011.

(5) A memorandum, Headquarters and Headquarters Company, 525th Battlefield Surveillance Brigade, subject: Letter of Intent to Chapter, dated 21 April 2011, reflects the applicant's company commander's intent to separate the applicant under the provisions of Army Regulation 635-200, paragraph 14-12b (Patterns of Misconduct). The company commander states the applicant failed to abide by the regulation of Rest & Recuperation (R&R) leave and missed their return flight to Afghanistan and did not contact their rear chain of command until 8 day later. The applicant has been counsel for above separation action.

(6) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ) dated 2 May 2011, reflects the applicant received nonjudicial punishment for, on or about 26 February 2011, through neglect, miss the movement of their flight back to Afghanistan from R&R Leave, in violation of Article 87 (Missing Movement), UCMJ; and, on or about 26 February 2011, without authority, absent themselves from their unit, and did remain so absent until on or about 6 March 2011, in violation of Article 86 (Absent Without Leave). Their punishment consisted of 30 days of extra duty. The applicant elected not to appeal.

(7) A DA Form 3822 (Report of Mental Status Evaluation) dated 26 May 2011 reflects the applicant is fit full duty, including deployment. Section V (Diagnoses) reflects a diagnosis of Occupational Problem. The applicant was screened for Post Traumatic Stress Disorder and mild Traumatic Brain Injury with negative results. The clinical psychologist remarked "there is no evidence of mental defect, emotional illness, or psychiatric disorder of sufficient severity to warrant disposition through military medical channels. [Servicemember] SM is mentally responsible, can distinguish right from wrong, and possesses sufficient mental capacity to understand and participate intelligently as a respondent in any administrative proceedings. SM is psychologically cleared for any administrative action deemed by command.

(8) A memorandum, Headquarters, Fort Bragg, subject: General Officer Memorandum of Reprimand, dated 9 June 2011, reflects the applicant was reprimanded in writing for, driving while impaired after being stopped for speeding on 28 May 2011. The applicant refused to take a lawfully requested intoximeter test.

(9) A DA Form 8003 (Army Substance Abuse Program (ASAP) Enrollment) dated 28 July 2011 reflects the applicant was referred to the ASAP for a comprehensive assessment to determine whether or not they meet the criteria for enrollment. The reason for referral is shown a Driving Under the Influence, 28 May 2011. The results reflect it was decided not to enroll the applicant into ASAP, but to attend Prime for Life for alcohol/drug education. The applicant was returned to duty.

(10) Five DA Forms 4856 (Developmental Counseling Form) dated 1 August 2011 through 5 August 2011, reflects the applicant received event oriented counseling for acts of misconduct, to include failure to report and disrespecting an NCO.

(11) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ) dated 11 August 2011, reflects the applicant received nonjudicial punishment for three occurrences of violation of Article 86 (Absent Without Leave), UCMJ, violation of Article 91 (Insubordinate Conduct toward an NCO), UCMJ, and violation of Article 107 (False Official Statement). Their punishment consisted of a reduction in rank/grade from specialist/E-4 to private two/E-2, forfeiture of \$822.00, and 45 days of extra duty. The applicant elected not to appeal.

(12) A memorandum, 525th Battlefield Surveillance Brigade, subject: Investigating Officer Appointment, dated 23 August 2011, reflects the appointment of an investigating officer to conduct an informal investigation into allegations that the applicant impersonated an NCO

and/or wore insignia, decorations, badges, ribbons, or devices upon their uniform that they were not authorized.

(13) A memorandum, 525th Battlefield Surveillance Brigade, subject: Findings and Recommendation, Army Regulation 15-6 Investigation into [Applicant]: Impersonation of an NCO and Wearing of Unauthorized Insignia, Decorations, Badges, Ribbons, or Devices, dated 9 September 2011, reflects the findings and recommendations of the Investigating Officer.

(a) A Summary states on or about 23 December 2010, the applicant, with the rank/grade of private two/E-2, returned to Alabama from Afghanistan to attend the funeral of their grandmother. While they were home, they were photographed wearing a uniform with the rank/grade of staff sergeant/E-6 and various unauthorized accoutrements. The applicant returned to Afghanistan on or about 3 January 2011. They returned again to Alabama on R&R leave on 10 February 2011. On 26 February 2011, the applicant missed their flight to Afghanistan and did not contact their chain of command until 6 March 2011. On 8 March 2011 the applicant was ordered to report to Fort Bragg, NC. The applicant's detachment commander initiated chapter procedures on 21 April 2011. On or about 7 August 2011, a bulletin at the First United Methodist Church was published featuring a paragraph about the applicant, it stated the applicant was awarded the Distinguished Service Cross, Purple Heart, Army Commendation Medal, and the Bronze Star. On 13 August 2011, an article featuring the applicant was published by the Andalusia Star-News. It included the photograph taken in December 2010. In the article, the applicant claimed to be a sergeant first class/E-7. The article also stated the applicant recently earned the Distinguished Service Cross, Purple Heart, Army Commendation Medal, and the Bronze Star. The article went on to describe a vague story of the applicant saving another Soldier's life and they completed three tours of duty, deployed both to Iraq and Afghanistan.

(b) The finding shows the allegation of, in violation of Article 134, in which the applicant impersonated a NCO, particularly as it relates to their appearance in a news article reported in The Andalusia Star-New of or about 13 August 2011 is substantiated; in violation of Article 134, in that the applicant wore insignia, decorations, badges, ribbons, or devices upon their uniform that they were not authorized, particularly as it relates to their appearance in a news article in The Andalusia Star-New on or about 13 August 2011 is substantiated; and in violation of Article 91 (False Statements), in that the applicant did, on 31 August 2011, with intent to deceive, make a statement to wit: "I never spoke to anyone from The Andalusia Star-News" [Is the picture in the article you?] "No," which statement was totally false, and was known then by the said to be so false, is substantiated.

(c) The Investigating Officer recommends a criminal investigation be initiated and pursue UCMJ action.

(14) A memorandum Headquarters and Headquarter Company, 525th Battlefield Surveillance Brigade, subject: Separation of [Applicant], under Army Regulation 635-200, Paragraph 14-12c (Commission of a Serious Offense), dated 29 September 2011, reflects the applicant's company commander notifying them of initiation of action to separate them for Commission of a Serious Offense. The reasons for the proposed action are describe above in paragraph 3c(2). The company commander recommended the applicant receive an Under Other Than Honorable Conditions discharge. On that same day the applicant acknowledged receipt of their notification.

(15) On 4 October 2011, the applicant completed their election of rights, signing they had been advised of the basis for the contemplated actions to separate them for Commission of a Serious Offense and its effect; of the rights available to them, and of the effect of any action

taken by them in waiving their rights. The applicant elected to waive consideration of their case by an administrative board, to include personal appearance before such board. They elected not to submit statements on their behalf and waived consulting counsel and representation by military counsel. They understand that as a result of the issuance of a discharge under other than honorable conditions they may be ineligible for many or all benefits as a veteran under both Federal and State laws and they may expect to encounter substantial prejudice in civilian life.

(16) A memorandum Headquarters and Headquarter Company, 525th Battlefield Surveillance Brigade, subject: Separation of [Applicant], under Army Regulation 635-200, Paragraph 14-12c (Commission of a Serious Offense), dated 5 October 2011, the applicant's company commander submitted a request to separate them prior to their expiration term of service, stating they recommend the applicant be issued an Under Other Than Honorable Conditions Discharge.

(17) A memorandum, Headquarters, Fort Bragg, subject: Separation under Army Regulation 635-200, Chapter 14, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 18 October 2011, the separation authority directed the applicant be discharged from the U.S. Army with an Under Other Than Honorable Conditions Discharge and immediately be reduced to the rank/grade of private/E-1.

(18) On 9 November 2011, the applicant was discharged accordingly, the DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12c (Net Active Service This Period) – 3 years, 9 days
- item 12i (Effective Date of Pay Grade) – 18 October 2011
- item 18 (Remarks) – in part, MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – Under Other Than Honorable Conditions
- item 28 (Narrative Reason for Separation) – Misconduct (Serious Offense)
- item 29 (Dates of Time Lost During This Period) – 20090214 – 20090518; 20110226 - 20110312

i. Lost Time / Mode of Return: 14 February 2009 – 18 May 2009 / Apprehended by Civil Authorities; and 26 February 2011 – 12 March 2011 / NIF.

j. Behavioral Health Condition(s):

(1) Applicant provided: VA Discharge Summary reflects the applicant's diagnoses of Traumatic Brain Injury, Alcohol Dependence and Benzodiazepine Dependence. A VA letter reflects the applicant's service connection for treatment purposes only for PTSD (also claimed as mental health condition) is granted, from their claim for service connected compensation received on 27 March 2018.

(2) AMHRR Listed: MSE/BHE as described in previous paragraph 4h(7).

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- VA Discharge Summary and Letter

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the application.

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

a. Title 10, U.S. Code, Section 1553, (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, Title 10 U.S. Code, Section 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense (DoD) Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as

causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board) sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 6 September 2011, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(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) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record. Paragraph 14-12c (Commission of a Service Offense), stated a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

(5) Chapter 15 (Secretarial Plenary Authority), currently in effect, 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 "JKQ" as

the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c, misconduct (serious offense).

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 DoD Instruction 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:

(1) 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.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable 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, United States (2008 Edition) stated, military law consists of the statutes governing the military establishment and regulations issued thereunder, 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 order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following Article 86 (Absence Without Leave), Article 87 (Missing Movement), Article 91 (Disrespect toward NCO), Article 107 (False Official Statement), Article 111 (Drunken Driving), and Article 134 (Impersonation).

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. The available evidence reflects the applicant received a general officer memorandum of reprimand for driving while impaired; received on two occurrences nonjudicial punishment for acts of misconduct; substantiated findings on an Army Regulation 15-6 Investigation for impersonating an NCO, for wearing insignia, decorations, badges, ribbons, or devices not authorized, and providing false statements; and was involuntarily discharge from the U.S. Army. The DD Form 214 provides the applicant was discharged with a character of service of under other than honorable conditions for misconduct, (serious offense). They completed 3 years and 9 days of net active service this period; however, they did not complete their 4-year, 15-week contractual enlistment obligation.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct,

commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

d. The applicant's AMHRR reflects documentation of a diagnosis of "Occupational Problem;" however, there was no evidence of mental defect, emotional illness, or psychiatric disorder of sufficient severity to warrant disposition through military medical channels. The applicant did provide VA evidence of a diagnosis of Traumatic Brain Injury, Alcohol Dependence and Benzodiazepine Dependence and of service connection for treatment purposes only for PTSD (also claimed as mental health condition), that was granted from their claim for service connected compensation received on 27 March 2018.

e. Published DoD 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: In-service diagnoses included Adjustment Disorder and Alcohol Abuse. Post-service connected for PTSD with chronic incarceration for IPV and other violent or substance issues.

(2) Did the condition exist, or experience occur during military service? **Yes.** In-service diagnoses included Adjustment Disorder and Alcohol Abuse.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that based on the VA's SC for PTSD and related liberal consideration guidance compelling application of this SC condition, the basis is partially mitigated. Specifically, trauma can be related to substance abuse, avoidance, and difficulty with authority. However, impersonating a NCO and related false official statements is not mitigated. There is no nexus with trauma and the act involves multiple conscious, purposeful, and planned out steps over time with attempts to evade detection when discovered indicative of intact cognitive processes and not reflective of any impairing condition.

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

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends their offense was directly related to an undiagnosed service connected disability.

The Board considered this contention and determined that there is no nexus with trauma and the act of impersonating an NCO involves multiple conscious, purposeful, and planned out steps over time with attempts to evade detection when discovered indicative of intact cognitive processes and not reflective of any impairing condition.

(2) The applicant contends they have been working through the VA to manage and improve their condition.

The Board acknowledged this contention during proceedings.

d. 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.

e. Rationale for Decision:

(1) The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found the totality of the misconduct did not warrant an upgrade to the current discharge. The Board Members stated the majority of the misconduct that is not medically mitigated is serious: Impersonating an NCO, related false official statements, and additional information from the applicant's medical file revealed the applicant was on probation for harassing his ex-girlfriend and her boyfriend. The applicant went to the ex-girlfriend's home with a machete and threatened to kill the ex-girlfriend and her boyfriend. Based on a preponderance of evidence, the Board determined the reason for the applicant's separation and the character of service the applicant received upon separation were proper and equitable. 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.

(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:

- f. **Issue a New DD-214 / Separation Order:** No
- g. **Change Characterization to:** No change
- h. **Change Reason / SPD code to:** No change
- i. **Change RE Code to:** No change
- j. **Change Authority to:** No change

Authenticating Official:

8/8/2024

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