

1. Applicant's Name:

- a. **Application Date:** 19 July 2021
- b. **Date Received:** 22 July 2022
- 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 and a separation Program designator (SPD) code change.

The applicant seeks relief contending, in effect, the applicant has a critical mental breakdown that completely changed the applicant's mental state. The applicant was dealing with trauma, pain both physically and emotionally. The applicant tried to communicate with leaders but felt alone.

b. **Board Type and Decision:** In a personal appearance conducted on 4 October 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) / AR 635-200, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 22 February 2021

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 13 January 2021

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant disrespected a superior commissioned officer; failed to obey a lawful order from a noncommissioned officer; and the applicant misused a Government Charge Card (GOVCC) a total of 21 times.

(3) **Recommended Characterization:** General (Under Honorable Conditions)

(4) **Legal Consultation Date:** On 21 January 2021, the applicant declined the right to consult with counsel.

(5) **Administrative Separation Board:** NA

(6) **Separation Decision Date / Characterization:** 1 February 2021 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210016973

- a. **Date / Period of Enlistment:** 25 July 2019 / 4 years
- b. **Age at Enlistment / Education / GT Score:** 27 / HS Graduate / 115
- c. **Highest Grade Achieved / MOS / Total Service:** E-5 / 42A20, Human Resource Specialist / 5 years, 4 months
- d. **Prior Service / Characterizations:** RA, 29 December 2015 – 24 July 2019 / HD
- e. **Overseas Service / Combat Service:** NIF
- f. **Awards and Decorations:** ARCOM, AAM, AGCM, NDSM, GWOTSM, AFSM, NCOPDR, ASR
- g. **Performance Ratings:** 1 April 2019 – 30 March 2020 / Highly Qualified
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) FG Article 15, 4 November 2020, reflects on or about 14 September 2020, the applicant behaved with disrespect towards a commissioned officer and failed to obey a direct order. The punishment consisted of forfeiture of \$1,445 pay; extra duty and restriction for 25 days; and an oral reprimand.

(2) DA Form 3822 (Report of Mental Status Evaluation (MSE)), 25 November 2020, reflects the applicant could understand and participate in administrative proceedings and could appreciate the difference between right and wrong. The MSE further reflects the applicant's behavioral health condition was likely a mitigating factor in the alleged behavior leading to administrative separation.

(3) Memorandum, subject: Findings and Recommendations for AR 15-6 Investigation of alleged misconduct by [Applicant], 7 December 2020, reflects an investigating officer found the preponderance of the evidence supports the applicant attempted to misuse a GOVCC and did misuse a GOVCC.

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

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

(1) **Applicant provided:** The applicant provides a letter for the Department of Veteran Affairs (VA), 21 July 2021, which reflects the applicant was awarded a combined service-connection evaluation of 100 percent. The nature of the disabilities is not listed.

- (2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, DD Form 214, ERB, VA letters, Howard University Admission Decision, Application Essay, Personal statement, Letter of recommendation, photos, Letter of Congratulations, Documents pertaining to academic achievements, documents from military personnel file (162 total pages)

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) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes 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.

(6) Paragraph 14-12c, states 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.

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 12c, misconduct (serious offense).

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 change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant requests the SPD code be changed. The applicant was separated under the provisions of AR 635-200, Chapter 14-12c, with a general (under honorable conditions) discharge and a RE code of "3." The narrative reason specified by Army Regulations for a discharge under this chapter is "Misconduct (Serious Offense)" and the separation code is "JKQ." Army Regulation 635-5, Separation Documents governs the preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason or SPD code to be entered under this regulation.

The applicant contends the applicant had a critical mental breakdown that completely changed the applicant's mental state. The applicant was dealing with trauma, pain both physically and emotionally. The applicant tried to communicate with leaders but felt alone. The applicant underwent a MSE on 25 November 2020, which reflects the applicant could understand and participate in administrative proceedings and could appreciate the difference between right and wrong. The MSE further reflects the applicant's behavioral health condition was likely a mitigating factor in the alleged behavior leading to administrative separation.

a. Counsel / Witness(es) / Observer(s):

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Other Specified Trauma and Stressor Related Disorder (DO), Military Sexual Trauma (MST), Major Depressive DO (MDD-50% Service Connected).

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the diagnosis of Other Specified Trauma and Stressor Related DO and the experience of MST occurred while applicant was on active duty. VA service connection for MDD establishes nexus with active 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 several BH conditions, MDD, Other specified trauma and stressor related disorder and MST, which mitigate some of her misconduct. As there is an association between MDD, MST, Other Specified Trauma and Stressor Related Disorder, and difficulty with authority figures leading to oppositional behaviors, there is a nexus between her diagnoses of MDD, MST, her Trauma/Stressor Disorder, her disrespect of a commissioned officer and her disobeying of a legal order from an NCO. MDD, MST, and Trauma/Stressor do not mitigate misusing a government credit card 21 times as these conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

(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 and experience do not outweigh the basis of separation. The applicant's MDD, MST, Trauma/Stressor do not mitigate misusing a government credit card 21 times as these

conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right.

b. Response to Contention(s): The applicant contends the applicant had a critical mental breakdown that completely changed the applicant's mental state. The applicant was dealing with trauma, pain both physically and emotionally. The applicant tried to communicate with leaders but felt alone.

The Board considered this contention but found an upgrade to Honorable is not supported by the evidence of record. The Honorable characterization is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty or is otherwise meritorious. Although there is an association between MDD, MST, Other Specified Trauma and Stressor Related Disorder, and difficulty with authority figures leading to oppositional behaviors, and there is a nexus between the applicant's diagnoses of MDD, MST, the applicant's Trauma/Stressor Disorder, disrespect of a commissioned officer and disobeying of a legal order from an NCO. The applicant's MDD, MST, and Trauma/Stressor disorder do not mitigate misusing a government credit card 21 times. These conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right. Therefore, an honorable discharge is not warranted.

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, despite applying liberal consideration of all the evidence before the Board. The Board noted there is an association between MDD, MST, Other Specified Trauma and Stressor Related Disorder and difficulty with authority figures leading to oppositional behaviors, and there is a nexus between the applicant's diagnoses and the applicant's misconduct of disrespect of a commissioned officer and disobeying of a legal order from an NCO. However, the applicant's medical diagnoses do not mitigate misusing a government credit card 21 times. The applicant's conditions do not affect one's ability to distinguish right from wrong and act in accordance with the right. The Board also considered the applicant's contention regarding the applicant's assertion of a critical mental breakdown that completely changed the applicant's mental state. However, the Board found the totality of the applicant's record does not warrant a discharge upgrade. 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 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 rationale, 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:

10/10/2024

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