

**1. Applicant's Name:**

**a. Application Date:** 24 July 2021

**b. Date Received:** 26 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 General (Under Honorable Conditions). The applicant requests an upgrade to Honorable and a narrative reason change.

**b.** The applicant seeks relief contending, during their time assigned to 6th Battalion 52nd Aviation Regiment, they were subjected to unmitigated harassment and assault by their senior noncommissioned officer (SNCO). These events led to their undiagnosed (at the time) General Anxiety Disorder (GAD) and an eventual diagnosis of Post Traumatic Stress Disorder (PTSD). Regardless of the IG (Inspector General) complaint filed against their SNCO, the applicant was subjected to retaliation and retribution leading to their full mental breakdown and subsequent mistreatment by their command. The current commander of 6/52 Aviation Regiment has provided them with a Memorandum for Record which gives their support in the applicant's change in discharge and their enclosed documents will show a pattern of misconduct against them. They only desire to put this behind them and be able to say to their children: not every unit is like this and their experience was unique and not indicative of service as a whole.

**c. Board Type and Decision:** In a records review conducted on 06 December 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, Chapter 14-12C / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 7 December 2012

**c. Separation Facts:**

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

**(2) Basis for Separation:** On or about 23 April and 5 May 2012, the applicant stole one combat vehicle crewmember body armor, military property, valuing \$194.93 and made a false official statement.

**(3) Recommended Characterization:** NIF

**(4) Legal Consultation Date:** NIF

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

**(6) Separation Decision Date / Characterization: NIF****4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 8 December 2006 / 6 years

**b. Age at Enlistment / Education / GT Score:** 21 / Associates Degree / NIF

**c. Highest Grade Achieved / MOS / Total Service:** E-5 (SGT) / 92Y1O 00 Unit Supply Specialist / 7 years, 3 months, and 12 days of total service

**d. Prior Service / Characterizations:**

**(1)** United States Army Reserve (USAR), 27 August 2002 – 14 July 2003 (10 months, 17 days) / Honorable

**(2)** Regular Army (RA), 14 July – 7 December 2003 (4 months, 24 days) / Honorable

**(3)** Break in Service, 8 December 2003 – 7 December 2006 (3 years)

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:**

- Army Achievement Medal (4th Award)
- Army Good Conduct Medal
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Non Commissioned Officer – Professional Development Ribbon
- Army Service Ribbon
- Military Outstanding Volunteer Service Medal

**g. Performance Ratings:** SGT, 29 June 2011 – 5 May 2012 / Marginal; Reason for Submission: Relief for Cause and the senior rater commented, do not promote, do not retain on the AGR Program; and do not retain in the U.S. Army Reserves.

**(1)** For “Competence,” the applicant needed much improvement, for having used MOS knowledge to purposely deceive supervisors and subordinates; used poor judgement by utilizing access to storage areas to steal government property; and used poor judgement by utilizing official government documents to conceal the theft of government property.

**(2)** For “Leadership,” they needed much improvement, for having failed to lead by example; placed personal needs above the mission, the unit, and their Soldiers; and for the perception of improper conduct of rated NCO adversely affected moral and discipline within the section.

**(3)** For “Training,” the applicant needed some improvement, for having failed to train subordinates on Unit Level Logistics System (USE).

**(4)** For “Responsibility and Accountability,” they needed much improvement, for having been relieved for stealing government property of sensitive nature. They have been notified of

the reason for the relief.

**h. Disciplinary Action(s) / Evidentiary Record:**

(1) On 8 December 2006, the applicant enlisted in the USAR as a private first class, PFC (E-3), with 1 year, 4 months, and 13 days of total prior service. On 17 April 2007, they promoted to specialist, SPC (E-4). On 6 August 2008, they served on active duty as an Active Guard Reserve, for a period of three years. On 7 November 2008, they promoted to sergeant, SGT (E-5).

(2) On 29 July 2011, at the request of MAJ (652nd executive officer), the USARC (United States Army Reserve Command) flight surgeon, Joint Forces Training Base, Los Alamitos, CA, notified the XO via email regarding the telephonic interview with the applicant. The provider inquired about their wellbeing to address leadership's concerns for their declining performance and their display of emotional duress. The applicant stated they were very anxious about the continual harassment at the hands of SFC and MSG, over the last seven months.

(a) The applicant was asked if they felt significantly depressed or angry and directly asked them if they felt they could do harm to themselves or others, in which they denied any such ideations. They were calm over the phone and did not exhibit any undue distress in their voice or speech pattern. The applicant sent the flight surgeon a list of infractions committed by SFC and additionally, they were in the process of retaining legal counsel, and was forwarding an IG (Inspector General) complaint. The primary allegations centered around the directive issued by SFC for the applicant to use another Soldiers GPC card, which is a direct violation.

(b) The documents listed their grievances with both SFC and MSG and also stated the applicant has witnesses and audio recordings to validate their claims. SGT R\_\_ submitted a statement to them as well, corroborating the applicant's claims of mistreatment by SFC. The flight surgeon was to present these documents to the XO and new battalion commander within the week. They did not see any reason to sanction a command directed mental health evaluation of the applicant at that time and strongly recommended punitive action against the applicant cease forth with, until this matter could be investigated by neutral parties, either within the 652nd or higher up the chain. They opined while the applicant did not appear to indicate any imminent warning signs of significant behavioral crisis, continued harassment or badgering by their peers could result in an acute change, as one would expect with any stable individual.

(c) Between November 2010 – July 2012, the applicant detailed the hostile work environment and mistreatment the applicant and others worked in. Additionally, there are pictures of their ruined uniform, as well as the emails/screenshots taken by the applicant. The applicant was also made to go before a board to determine if they should be demoted for inefficiency, which found no merit and concluded the applicant should be "transferred within grade."

(3) A Statement of Service, dated 31 May 2012, provides the applicant had a total of 6 years, 9 months, and 5 days of total creditable service years with 4 years, 7 months, and 3 days active duty service.

(4) On 16 June 2012, the applicant received nonjudicial punishment (NJP) for having made an official statement, with intent to deceive, to wit: the applicant stated they believed the Combat Vehicle Crewmember Body Armor was missing, and they had purchased the previously mentioned item from an Army Navy surplus store, which was totally false, and was then known by the applicant to be false, on or about 5 May 2012, in violation of Article 107, UCMJ (false official statement). They did not appeal. Their punishment imposed a reduction to SPC and a

written reprimand.

(5) On 31 July 2012, the applicant was awarded an Associate of Arts degree from the University of Phoenix. On 16 November 2012, the applicant was released from their active duty orders with their separation date scheduled. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged accordingly on 7 December 2012, with 7 years, 3 months, and 12 days of total service (5 years, 1 month, and 10 days of active duty service). The following are noted:

- Authority: AR 635-200, Chapter 14-12C
- Narrative Reason: Misconduct (Serious Offense)
- SPD Code: JKQ
- Reentry Code: RE-3
- Service Characterization: General (Under Honorable Conditions)
- Total NET Active Service Period: 4 years, 3 months, and 13 days
- Remarks: Separated from service on temporary records and Soldier's affidavit; Item 12d, does not account for annual and/or weekend training the applicant may have accomplished, prior to the date entered this period; member has completed first full term of service.
- Lost Time: None
- Signature: Electronically signed.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** On 28 October 2011, the applicant completed a mental status evaluation (MSE) at Weed Army Community Hospital, Embedded Behavioral Health, Fort Irwin, CA, indicating the following BH diagnosis: Generalized Anxiety Disorder (in remission/controlled by psychiatric medication) and is fit for duty without restrictions. The psychologist noted they have suffered from a long-standing anxiety disorder, with the record and self-reported by the applicant indicating it took some time to stabilize them on a properly therapeutic dose of Celexa; the applicant stated this was the "best thing" that ever happened to them. They have exhibited a long-standing habit of forgetting tasks and giving false feedback in an attempt to mask their failure, while trying to catch up on what they have overlooked. They reported having made good progress recently in developing accountability, with the implementation of methods to overcome this self-defeating pattern. Psychological testing reveals no current issues or concern. The provider's recommendation was to continue the Celexa prescription with maintenance follow up through Los Angeles Air Force Base. Though no counseling was recommended at the time, the applicant should be allowed to return to LA AFB for counseling if the applicant desired to do so.

**5. APPLICANT-PROVIDED EVIDENCE:** ACTS Online Application; Medical Recommendation Email; Spousal Support Statement; Three Character Letters

a. The spouse contends, SFC has threatened to do bodily harm to the applicant and went as far as to threatened to kill them, which was reported to the applicant's command but never rectified. SFC threatened to cause harm to the applicant's child, which was heard by another Soldier (SPC) and when the spouse asked if SPC would write a statement of what they heard, they declined for fear of retribution from SFC. On 20 January 2011, the applicant was forced to low crawl in the gutters in front of their unit building and because they were afraid of being cited for insubordination had the applicant refused, they carried out the unlawful orders. It is only

when LTC P\_\_ from another unit saw what was happening and demanded to know why SFC had the applicant doing this, did the mistreatment stop. The applicant's uniform was torn, covered in gutter water, dirt, and mud, which resulted in abrasions to their elbow and knees. The issues were never resolved and the harassment continued, with the applicant having been called into the office to be counseled on things that was not their fault. The applicant requested many times to be transferred and each time was talked out of transferring by a member of the command.

(1) The applicant is a good person, who worked hard and cared deeply about being a Soldier and serving their country. They excelled even without the proper training upon arriving to 6/52nd Aviation Regiment and received kudos from MSG (master sergeant). Upon SFC taking over the section, things went downhill due to the harassment. The applicant was afraid to go into work and the spouse often feared the applicant would not come home one day. Under SFC's toxic leadership, the applicant became more depressed, has developed social anxiety and now taking medication to help them get through the day. They are seeing a counselor at the clinic at El Segunda Air Force Base to help them through their anxiety and depression. The applicant stated to their spouse, if it was not for the child and the spouse, the applicant would have committed suicide, due to the stress they were put under. The spouse has seen a strong person who is confident in themselves and their abilities, turned into a drawn in, depressed, insecure person, who finds their only escape in a bottle of alcohol. Since the applicant has found help through their church to help them cope.

(2) This was not what the spouse thought the Army stood for. After boot camp, every Soldier has earned the right to be respected, to be taught, and given the chance to learn. Everything that they believed the Army stood for, has been tarnished by the lack of leadership, the lack of solidarity, the lack of respect, and loyalty that this unit and its senior leadership have shown the applicant, over the last two and a half years. The applicant asked LTC, CPT, and SFC, for a hardship transfer to their home of record to be close to their ailing parents. At the time, their teenage sibling was the only one there to take care of them, suffering with Parkinson's and MS (multiple sclerosis), were denied every time they requested a transfer. The spouse stated they were afraid for the health and the safety of their family. Although the command had been made aware, it was apparent that the command did not care about the Soldier's wellbeing or this behavior would have been stopped long before it began. It was also apparent that even though the applicant's work had improved, SFC was determined to find fault in them. The spouse believed it was in the best interest of the applicant and their family, to transfer from this toxic and evil environment.

(3) Three character letters from former leadership and colleagues, contends the applicant was in the top half of the NCOs at the unit; expressed gratitude for the applicant's organization and efficiency during the transition from the old to the new property book officer, as they were able to produce the necessary receipts for a smooth transfer; the applicant provided superb support and performed in an exceptional manner during the three years the applicant worked for the MAJ (ret) and recommended given the circumstances, no disciplinary or administrative action should have been taken, instead the applicant should have been allowed transferred to another unit and given an opportunity to remain in the Reserves.

**6. POST SERVICE ACCOMPLISHMENTS:** None provided with this 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 (Active Duty Enlisted Administrative Separations), 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)** 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 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. 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. 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 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 14-12C, 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 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:

(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 waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) 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 (2008 Edition), United States, states 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 orders and discipline in the Armed Forces.

(1) Article 107 (false official statement) states in the subparagraph, the maximum punishment consists of a dishonorable discharge, forfeiture of all pay and allowances, and confinement for five years.

(2) Article 121 (larceny, of military property of a value of \$500 or less) states in the subparagraph, the maximum punishment consists of a bad conduct discharge, forfeiture of all pay and allowances, and confinement for one year.

**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 Honorable and a narrative reason change. A review of the records provide there was an administrative irregularity in the proper retention of official military records, specifically, the separation package.

(1) The available evidence provides the applicant enlisted in the USAR as a PFC (with prior reserve, active duty, and a break in service), promoted to SGT, and served for 3 years, 9 months, and 21 days prior to the misconduct leading to their involuntary separation. The applicant received nonjudicial punishment for providing a false statement of a missing vehicle crewmember body armor, in violation of Article 107, UCMJ (false official statement) and stealing said body armor, in violation of Article 121 (larceny, of military property of \$500 or less). Consequently, they were reduced to SPC and received a written reprimand. Notwithstanding the missing documents, separation proceedings were initiated under the provisions of AR 635-200, Chapter 14-12C, Misconduct (Serious Offense), with a General (Under Honorable Conditions) characterization of service. The applicant served this period for 4 years, 3 months, and 13 days of their 6-year contractual obligation.



**b.** Pursuant to the XO's request, the USARC flight surgeon had a telephonic interview with the applicant, inquired about their wellbeing as the chain of command was concerned, as the applicant was not performing to expectations and exhibiting signs of emotional duress. The applicant stated they were very anxious about the continual harassment at the hands of SFC and MSG, over the last seven months. They denied SI/HI, was calm over the phone, and did not exhibit any undue distress in their voice or speech pattern. The applicant sent the flight surgeon a list of infractions committed by SFC and additionally, they were in the process of retaining legal counsel, and was forwarding an IG (Inspector General) complaint. The primary allegations centered around the directive issued by SFC for the applicant to use another Soldiers GPC card, which is a direct violation.

**(1)** The documents listed their grievances with both SFC and MSG and also stated the applicant had witnesses and audio recordings to validate their claims. SGT's statement was received and corroborated the applicant's claims of mistreatment by SFC. The flight surgeon was to present these documents to the XO and new battalion commander within the week received. They did not see any reason to sanction a command directed mental health evaluation of the applicant at that time and strongly recommended punitive action against the applicant immediately, until this matter could be investigated by neutral parties, either within the 652nd or higher up the chain. They opined while the applicant did not appear to indicate any imminent warning signs of significant behavioral crisis, continued harassment or badgering by their peers could result in an acute change, as one would expect with any stable individual.

**(2)** The record is void of a medical examination for separation; a mental status evaluation was completed five months before separation, indicating a BH diagnosis: Generalized Anxiety Disorder (in remission/controlled by psychiatric medication) and was fit for duty without restrictions. The psychologist noted they have suffered from a long-standing anxiety disorder (supported by their record and self-reporting), which took some time to stabilize them on a properly therapeutic dose of Celexa. The applicant stated this was the "best thing" that ever happened to them. They have exhibited a long-standing habit of forgetting tasks and giving false feedback in an attempt to mask their failure, while trying to catch up on what they have overlooked. They reported having made good progress recently in developing accountability, with the implementation of methods to overcome this self-defeating pattern. Psychological testing reveals no current issues or concern. The provider's recommendation was to continue the Celexa prescription with maintenance follow-ups as needed. Though no counseling was recommended, they should seek counseling if necessary.

**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.** 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 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: GAD, PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found GAD was diagnosed while on active duty. Service connection for PTSD establishes nexus with military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and while the applicant has been diagnosed with PTSD and GAD, these conditions do not mitigate the offenses of theft and lying as they do not affect one's ability to tell right from wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the available evidence did not support a conclusion that the applicant's GAD and PTSD outweighed the applicant's medically unmitigated misconduct of theft and lying.

b. Prior Decisions Cited: None

c. Response to Contention(s): The applicant seeks relief contending, while assigned to 6th Battalion 52nd Aviation Regiment, they were subject to unmitigated harassment and assault by their senior noncommissioned officer (SNCO). These events led to their undiagnosed (at the time) Anxiety Disorder and an eventual diagnosis of Post Traumatic Stress Disorder (PTSD). Regardless of the IG (Inspector General) complaint filed against their SNCO, the applicant was subject to retaliation and retribution leading to their full mental breakdown and subsequent mistreatment by their command. The current commander of 6/52 Aviation Regiment has provided them with a Memorandum for Record which gives their support in the applicant's change in discharge and their enclosed documents will show a pattern of misconduct against them. They only desire to put this behind them and be able to say to their children: not every unit is like this and their experience was unique and not indicative of service as a whole. The Board considered the applicant's PTSD and GAD, however, these conditions do not mitigate the offenses of theft and lying as they do not affect one's ability to tell right from wrong and act in accordance with the right.

(1) The spouse contends, SFC has threatened to do bodily harm to the applicant and went as far as to threatened to kill them, which was reported to the applicant's command but never rectified. SFC threatened to cause harm to the applicant's child, which was heard by another Soldier (SPC) and when the spouse asked if SPC would write a statement of what they heard, they declined for fear of retribution from SFC. On 20 January 2011, the applicant was forced to low crawl in the gutters in front of their unit building and because they were afraid of being cited for insubordination had the applicant refused, they carried out the unlawful orders. It is only when LTC P\_\_ from another unit saw what was happening and demanded to know why SFC had the applicant doing this, did the mistreatment stop. The applicant's uniform was torn, covered in gutter water, dirt, and mud, which resulted in abrasions to their elbow and knees. The issues were never resolved and the harassment continued, with the applicant having been called into the office to be counseled on things that was not their fault. The applicant requested

many times to be transferred and each time was talked out of transferring by a member of the command.

The Board considered this contention and there was not enough evidence provided by the applicant, or in the file, to support the applicant's contention of harassment or assault and that the discharge was improper or inequitable. In light of the current evidence of record, the Board determined the applicant's discharge was proper and equitable.

(a) The spouse contends, the applicant is a good person, who worked hard and cared deeply about being a Soldier and serving their country. They excelled even without the proper training upon arriving to 6/52nd Aviation Regiment and received kudos from MSG (master sergeant). Upon SFC taking over the section, things went downhill due to the harassment. The applicant was afraid to go into work and the spouse often feared the applicant would not come home one day. Under SFC's toxic leadership, the applicant became more depressed, has developed social anxiety and now taking medication to help them get through the day. They are seeing a counselor at the clinic at El Segunda Air Force Base to help them through their anxiety and depression. The applicant stated to their spouse, if it was not for the child and the spouse, the applicant would have committed suicide, due to the stress they were put under. The spouse has seen a strong person who is confident in themselves and their abilities, turned into a drawn in, depressed, insecure person, who finds their only escape in a bottle of alcohol. Since the applicant has found help through their church to help them cope. The Board considered this contention and there was not enough evidence provided by the applicant, or in the file, to support the applicant's contention of harassment or assault and that the discharge was improper or inequitable. In light of the current evidence of record, the Board determined the applicant's discharge was appropriate.

(b) The spouse contends, this was not what the spouse thought the Army stood for. After boot camp, every Soldier has earned the right to be respected, to be taught, and given the chance to learn. Everything that they believed the Army stood for, has been tarnished by the lack of leadership, the lack of solidarity, the lack of respect, and loyalty that this unit and its senior leadership have shown the applicant, over the last two and a half years. The applicant asked LTC, CPT, and SFC, for a hardship transfer to their home of record to be close to their ailing parents. At the time, their teenage sibling was the only one there to take care of them, suffering with Parkinson's and MS (multiple sclerosis), were denied every time they requested a transfer. The spouse stated they were afraid for the health and the safety of their family. Although the command had been made aware, it was apparent that the command did not care about the Soldier's wellbeing or this behavior would have been stopped long before it began. It was also apparent that even though the applicant's work had improved, SFC was determined to find fault in them. The spouse believed it was in the best interest of the applicant and their family, to transfer from this toxic and evil environment. The Board considered this contention and there was not enough evidence provided by the applicant, or in the file, to support the applicant's contention of harassment or assault and that the discharge was improper or inequitable. In light of the current evidence of record, the Board determined the applicant's discharge was appropriate.

(2) Three character letters from former leadership and colleagues, contend the applicant was in the top half of the NCOs at the unit; expressed gratitude for the applicant's organization and efficiency during the transition from the old to the new property book officer, as they were able to produce the necessary receipts for a smooth transfer; the applicant provided superb support and performed in an exceptional manner during the three years the applicant worked for the MAJ (ret) and recommended given the circumstances, no disciplinary or administrative action should have been taken, instead the applicant should have been allowed transferred to another unit and given an opportunity to remain in the Reserves. The Board considered the applicant's years of service and the numerous awards received by

the applicant but determined that these factors did not outweigh the applicant's basis for separation and misconduct (theft and lying).

**d.** The Board determined that the applicant's separation was both proper and equitable.

**e.** 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 GAD and PTSD did not excuse or mitigate the applicant's offenses of theft and lying. 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 based on the same rationale, and 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:**

1/6/2025

**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