

1. Applicant's Name: [REDACTED]**a. Application Date:** 13 January 2022**b. Date Received:** 18 January 2022**c. Counsel:** [REDACTED]**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 Honorable. The applicant requests a change of the narrative reason for separation from "Unacceptable Conduct" to "Secretarial Authority" and to change their separation authority and separation code to a corresponding authority and code. Furthermore, the applicant requests corrections of their DD Form 214 (Certificate of Release or Discharge from Active Duty) of their date of entry, date of separation, net active service and add their second Army Commendation Medal.

(2) The applicant, through counsel, seeks relief contending they made a serious mistake in judgement when they decided to elude Military Police on their motorcycle. They are not contesting this; however, this was a split second irrational and impulsive decision that was completely out of character for them. It was a one-time event that should not define an entire unblemished career. It is also important to consider mitigating factors at that time. They had just gone through the darkest period of their entire life in discovering their spouse had been having multiple extra-marital affairs. Everyone has a breaking point, and this discovery is enough to break any spouse. Despite this, they continued to perform at a phenomenal level at work, even while going through a vicious divorce. They continued to serve at an outstanding level, as attested by their chain of command.

b. Board Type and Decision:

(1) The issues regarding the corrections of the applicant's DD Form 214 are not within the purview of this Board. These issues should be addressed by the Army Board of Correction of Military Records (ABCMR). A DD Form 149 (Application for Correction of Military Records under the Provisions of Title 10, U.S. Code, Section 1552) is enclosed for the applicant's use.

(2) In a records review conducted on 12 November 2025, and by a 2-1 vote, the Board denied the request upon finding the separation was both proper and equitable. Please see Board Discussion and Determination section for more detail regarding the Board's decision. Board member names available upon request.

3. DISCHARGE DETAILS:**a. Reason / Authority / Codes / Characterization:** Unacceptable Conduct / Army Regulation 600-8-24, Paragraph 4-2 and Paragraph 4-24 / JNC / Honorable**b. Date of Discharge:** 18 September 2018

c. Separation Facts:

(1) Date of Initiation of Elimination: 4 December 2017

(2) Basis for Separation: The applicant was informed of the following reasons: substantiated derogatory activity resulting in a referred Officer Evaluation Report (OER) for the period 2 June 2016 – 1 September 2016 which was filed in their Army Military Human Resource Record (AMHRR) and conduct unbecoming an officer as indicated by the referred OER.

(3) Legal Consultation Date: 29 March 2018

(4) Board of Inquiry (BOI): NA

(5) General Officer's Show Cause Authority (GOSCA) Recommendation Date / Characterization: 30 June 2018 / Honorable

(6) DA Board of Review for Eliminations: On 24 August 2018, the Department of the Army Ad Hoc Review Board reviewed the Resignation in Lieu of Elimination Case for the applicant. The Deputy Assistant Secretary of the Army (Review Boards) accepted the applicant's resignation and will be discharged from the U.S. Army with an Honorable characterization of service. The elimination is based on misconduct and moral or professional dereliction (Army Regulation 600-8-24, paragraph 4-2b and derogatory information (Army Regulation 600-8-24, paragraph 4-2c).

(7) Separation Decision Date / Characterization: 24 August 2018 / Honorable

4. SERVICE DETAILS:

a. Date / Period of Active Duty Requirement: 2 April 2010 / 7 years

b. Age at Appointment / Education: 23 / Baccalaureate Degree

c. Highest Grade Achieved / MOS / Total Service: O-3 / 18A, Special Forces / 9 years, 1 month, 16 days

d. Prior Service / Characterizations: Army Reserve, 13 August 2009 – 1 April 2010 / Honorable

e. Overseas Service / Combat Service: None

f. Awards and Decorations: ARCOM, AAM, NDSM, GWTSM, ASR

g. Performance Ratings:

- 7 April 2011 – 28 October 2011 / No Box Check
- 29 October 2011 – 7 February 2012 / Above Center of Mass
- 8 February 2012 – 29 December 2012 / Above Center of Mass
- 30 December 2012 – 1 June 2016 / Highly Qualified
- 2 June 2016 – 1 September 2016 / Not Qualified
- 2 September 2016 – 1 June 2017 / Qualified
- 2 June 2017 – 15 September 2017 / Highly Qualified
- 16 September 2017 – 7 June 2018 / Highly Qualified
- 8 June 2018 – 18 September 2018 / Qualified

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 67-10-1 (Company Grade Plate OER) covering the period 2 June 2016 through 1 September 2016, reflects in –

- Part I(i) (Reason for Submission) – Relief for Cause
- Part II(d) (This is a Referred Report, Do you wish to make comments?) – Referred is marked and the applicant marked “Yes”
- Part IV(b) (This Officer’s Overall Performance is Rated as:) – “Unsatisfactory” with comments, in part – performance was overshadowed by the poor decision-making they made as a Detachment Commander when they attempted to elude arrest from law enforcement while operating their privately-owned motorcycle on 1 September 2016”
- Part IV(c)(1) (Character) – in part, “[Applicant] displayed a lack of judgment and sound character when [applicant] attempted to elude law enforcement during a traffic stop, [Applicant’s] poor decisions were not aligned with the Army values and [Applicant] did not set an example, as a leader and a U.S. Army officer, for others to follow”
- Part IV(c)(2) (Presence) – in part “[Applicant] lacks the presence to lead a Special Forces Operational Detachment-Alpha due to the two citations [Applicant] received for excessive speeding and eluding arrest while on [Applicant’s] privately-owned motorcycle”
- Part IV(c)(4) (Leads) – “[Applicant] no longer possesses the ability to lead since [Applicant’s] arrest and detention for eluding arrest on 1 September 2016”
- Part VI (Senior Rater) – “Not Qualified” with comments – “[Applicant] is ranked 32 of the 33 Captains currently I senior rate, [Applicant] no longer possesses the qualities required of a Special Forces officer due to [Applicant’s] arrest, detention, and citations received for excessive speeding and eluding arrest on [Applicant’s] privately-owned motorcycle on 1 September 2016”
- Evaluation Record Letter of Referral Rated Officer Response, in part – “I take full responsibility for my actions which lead to this referral, my actions were inexcusable and reflected poorly upon myself, 3rd Special Forces Group (Airborne), and the U.S. Army”

(2) A memorandum, U.S. Army Human Resources Command (HRC), subject: Initiation of Elimination, dated 4 December 2017, the commanding general notified the applicant of their requirement to Show Cause for retention on Active Duty under the provisions of Army Regulation 600-8-24, paragraph 4-2(b)(5) due to acts of personal misconduct and paragraph 4-2(c)(5) due to adverse information filed in their AMHRR. The actions are based on specific reasons as described above in paragraph 3c(2). The commanding general notified the applicant of their rights in according with Army Regulation, paragraph 4-24. On 28 March 2018, the applicant acknowledges receipt of their Notification of Initiation of Elimination.

(3) In the applicant’s memorandum, subject: Resignation in Lieu of Elimination Proceedings – [Applicant], dated 29 March 2018, the applicant states, having been informed that they are being considered for elimination, do request resignation from the Army under the provisions of Army Regulation 600-8-24, chapter 4, in lieu of further elimination proceedings. They have been fully advised and counseled by a member of The Judge Advocate General’s Corps, and they fully understand the implications of this voluntary action. They, therefore, voluntarily waived consideration of their case by a Board of Inquiry contingent upon receiving a characterization of service no less favorable than Honorable. They elected to submit statements and other matters of their behalf.

(4) In the applicant’s memorandum, Request Resignation in Lieu of Appearing before a Board of Inquiry, dated 11 May 2018, reflects the applicant’s request for favorable consideration of their request for resignation in lieu of Elimination Proceedings. They want to highlight the fact

that the mistake they made is not indicative of who they are as a person, leader, or officer. This act was a single momentary lapse in judgement. Absent this one bad decision, they have served their commitment to the U.S. Army honorably and have continued to excel as an officer and leader. They take full responsibility for their actions. Immediately preceding this misconduct, they discovered their now ex-spouse was having multiple affairs. After realizing this devastating news they filed for divorce which prompted their ex-spouse to make unfounded and salacious allegations against them. This tumultuous time, while no excuse, contributed to their reckless disregard for themselves and the safety of others on the road. Throughout their entire career, both before and after this life-changing event, they have performed as a stellar officer and Special Forces leader, as illustrated by their OERs, achievements, and letters of support.

(5) A memorandum, Headquarters, 1st Special Forces Command (Airborne), subject: Resignation in Lieu of Elimination, [Applicant], dated 20 June 2018, the commanding general notified the Commander, HRC, that they initiated action to eliminate the applicant for substantiated derogatory activity resulted in a referred OER for the period 2 June 2016 through 1 September 2016 which was filed in the applicant's AMHRR reflecting conduct unbecoming an officer. On 29 March 2018, the applicant submitted a conditional request for Resignation in Lieu of Elimination contingent upon receiving an Honorable characterization of service. After careful consideration of all matters and the applicant's conditional request, they recommend approval of the applicant's conditional resignation in lieu of elimination.

(6) A memorandum, Army Review Boards Agency, subject: Resignation in Lieu of Elimination Case, [Applicant], dated 24 August 2018, reflects the Department of the Ad Hoc Review Board has reviewed the Resignation in Lieu of Elimination on the applicant. The Deputy Assistant Secretary of the Army (Review Boards) accepted the applicant's resignation, and they will be discharged from the U.S. Army with a Honorable characterization of service. This elimination is based on misconduct and moral or professional dereliction (Army Regulation 600-8-24, paragraph 4-2b), and derogatory information (Army Regulation 600-8-24, paragraph 4-2c).

(7) On 18 September 2018, the applicant was discharged accordingly, their DD Form 214 (Certificate of Release or Discharge from Active Duty) provides they completed 8 years, 5 months, and 17 days of net active service. Their DD Form 214 reflects in –

- item 24 (Character of Service) – Honorable
- item 25 (Separation Authority) – Army Regulation 600-8-24, paragraph 4-2 and paragraph 4-24
- item 26 (Separation Code) – BNC
- item 28 (Narrative Reason for Separation) – Unacceptable Conduct

(8) A DD Form 215 (Correction to DD Form 214) reflects corrections to item 12b (Separation Date This Period) to show 28 September 2018 and item 12c (Net Active Service This Period) to show 8 years, 5 months, and 27 days.

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

j. **Behavioral Health Condition(s):** None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Counsel's Brief in Support of Application for Discharge Upgrade with 37 Exhibits
- Resume

- Border Patrol Agent Training Certificates

6. POST SERVICE ACCOMPLISHMENTS: Border Patrol Agent Training Certificates

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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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.

f. Army Regulation 600-8-24 (Officer Transfers and Discharges) effective 8 March 2020, set forth the basic authority for the separation of commissioned and warrant officers.

(1) Paragraph 1-23 (Types of Administrative Discharge/Character of Service) provided the authorized types of characterization of service or description of separation.

(2) Paragraph 1-23a, stated an officer will normally receive an honorable characterization of service when the quality of the officer's service has met the standards of acceptable conduct and performance of duty.

(3) Paragraph 1-23b, stated an officer will normally receive a general (under honorable conditions) characterization of service when the officer's military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge. A separation under general (under honorable conditions) normally appropriate when an officer submits an unqualified resignation; separated based on misconduct; discharged for physical disability resulting from intentional misconduct or neglect; or, for final revocation of a security clearance.

(4) Paragraph 1-23c, stated a discharge under other than honorable conditions is an administrative separation from the service. A discharge certificate will not be issued. An officer will normally receive an under other than honorable conditions when they, resign for the good of the service; are dropped from the rolls of the Army; are involuntary separated due to misconduct, moral, professional dereliction, or for the final revocation of a security clearance; or are discharged following conviction by civilian authorities.

(5) Chapter 4 (Eliminations) outlined the policy and procedure for the elimination of officers from the active Army for substandard performance of duty.

(6) Paragraph 4-2b, prescribed for the elimination of an officer for misconduct, moral or professional dereliction, or in the interests of national security. Paragraph 4-2c (Derogatory Information) stated when adverse information is filed in the AMHRR it is required to review the officer's record for consideration of terminating appointment. Standing alone, one of these conditions may or may not support elimination; however, this derogatory information combined

with other known deficiencies form a pattern that, when reviewed in conjunction with the officer's overall record, requires elimination.

g. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) effective 19 December 2016, 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. It prescribes the policies, procedures, and the general provisions governing the separation of Soldiers before expiration term of service or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

(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. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

h. 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 "BNC" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 600-8-24, Unacceptable Conduct.

8. SUMMARY OF FACT(S):

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

b. A review of the applicant's AMHRR reflects the applicant received a Referred OER and was required to Show Cause for retention on Active Duty, requested resignation in lieu of elimination proceedings and was discharged from the U.S. Army. Their DD Form 214 provides they were discharged with a character of service of Honorable, for unacceptable conduct. They completed 8 years, 5 months, and 27 days of net active service this period.

c. Army Regulation 600-8-24 (Officer Transfers and Discharges) sets forth the basic authority for the separation of commissioned and warrant officers. Paragraph 1-23c, states an officer will normally receive an Under Other Than Honorable Conditions characterization of service when the officer is involuntarily separated due to misconduct, moral or professional dereliction.

d. 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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused, or mitigated a discharge.

(2) Did the condition exist, or experience occur during military service? **N/A**

(1) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(2) Does the condition or experience outweigh the discharge? **N/A**

b. Prior Decisions Cited: **N/A**

c. Response to Contention(s):

(1) The applicant contends they made a serious mistake in judgement when they decided to elude Military Police on their motorcycle. They are not contesting this; however, this was a split second irrational and impulsive decision that was completely out of character for them. It was a one-time event that should not define an entire unblemished career. Due to the seriousness of the misconduct including conscious, deliberate decisions the applicant made when presented with challenges, one-time indiscretion does not excuse the misconduct. There is insufficient evidence to indicate the applicant was any less mature than other Soldiers of the same age who successfully completed military service. The Board voted after considering the contention and finding no evidence of the Command acting in an arbitrary or capricious manner. In this case, the Board determined that the applicant's characterization of service being Honorable with an Unacceptable Conduct narrative reason for separation is proper for the applicant's attempt to elude while an Officer in the military.

(2) The applicant contends it is important to consider mitigating factors at that time. They had just gone through the darkest period of their entire life in discovering their spouse had been having multiple extra-marital affairs. Everyone has a breaking point, and this discovery is enough to break any spouse. The applicant contends despite this, they continued to perform at a phenomenal level at work, even while going through a vicious divorce. They continued to serve at an outstanding level, as attested by their chain of command. The Board considered this contention but determined that the Army has many legitimate avenues available to service members requesting assistance with family issues, and there is no evidence in the official records nor provided by the applicant that such assistance was pursued. The Board concluded that the applicant's attempt at eluding law enforcement is not an acceptable response, thus the applicant was properly and equitably discharged. The Board voted not to change the applicant's reason for discharge or accompanying SPD code because, despite applying liberal consideration of all the evidence before the Board, the totality of the applicant's service record, to include length and quality of service, severe family matters, post-service accomplishments, and prior period of honorable service, did not excuse or mitigate the offenses of attempting to elude law enforcement on a motor cycle.

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 voted not to change the characterization of service due to it already being Honorable.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code because, despite applying liberal consideration of all the evidence before the Board, the totality of the applicant's service record, to include length and quality of service, severe family matters, post-service accomplishments, and prior period of honorable service, did not excuse or mitigate the offenses of attempting to elude law enforcement on a motor cycle. 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 discharge was proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Secretarial Authority.

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 Authority to: No Change

Authenticating Official:

12/9/2025



Legend:

AWOL – Absent Without Leave
 AMHRR – Army Military Human Resource Record
 BCD – Bad Conduct Discharge
 BH – Behavioral Health
 CG – Company Grade Article 15
 CID – Criminal Investigation Division
 ELS – Entry Level Status
 FG – Field Grade Article 15

GD – General Discharge
 HS – High School
 HD – Honorable Discharge
 IADT – Initial Active Duty Training
 MP – Military Police
 MST – Military Sexual Trauma
 N/A – Not applicable
 NCO – Noncommissioned Officer
 NIF – Not in File
 NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
 OBH (I) – Other Behavioral Health (Issues)
 OMPF – Official Military Personnel File
 PTSD – Post-Traumatic Stress Disorder
 RE – Re-entry
 SCM – Summary Court Martial
 SPCM – Special Court Martial

SPD – Separation Program Designator
 TBI – Traumatic Brain Injury
 UNC – Uncharacterized Discharge
 UOTHC – Under Other Than Honorable Conditions
 VA – Department of Veterans Affairs