

1. Applicant's Name: [REDACTED]**a. Application Date:** 24 January 2022**b. Date Received:** 3 February 2022**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant Requests: The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and corresponding changes be made to their narrative reason, separation authority, and separation code.

b. Applicant Contention(s)/Issue(s): Through counsel, the applicant requests relief contending, their discharge was unjust and inequitable. This alleged adultery did not meet the Uniform Code of Military Justice definition of misconduct because it was entirely private, caused no disruption to good order and discipline, and was unknown to the Army until the applicant self-disclosed it during a security interview. Case law confirms only conduct which is openly prejudicial or service-discrediting constitutes a military offense, which this did not. Further, the discharge failed procedural fairness under AR 635-200 since the applicant was never counseled or given corrective opportunity.

(1) Medical documentation shows the applicant suffered from childhood trauma and related behavioral health conditions which materially contributed to the alleged misconduct. Under the Hagel (2014), Kurta (2017), and Wilkie (2018) memoranda, such conditions require liberal consideration as mitigating factors. An Army Psychologist confirmed the applicant's treatment directly affected their relationships and emotional stability. Their four years of meritorious service as a Satellite Communications Systems Operator, combined with post-service professionalism FAA (Federal Aviation Administration) contractor, demonstrates rehabilitation and a strong character.

(2) Equitable relief is warranted. This evidence supports upgrading the applicant's general (under honorable conditions) discharge to honorable, correcting their separation code and authority to reflect their faithful service and the mitigating impact of the applicant's mental health conditions.

c. Board Type and Decision: In a records review conducted on 18 November 2025, and by a 3-0 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 are 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: 14 June 2018

c. Separation Facts: The separation case files were not properly stored in the Army Military Human Resource Record (AMHRR); however, through counsel, the applicant provided partial records as listed below.

(1) Date of Notification of Intent to Separate: Undated

(2) Basis for Separation: The applicant had sexual intercourse with five difference individuals which were not their spouse.

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

(4) Legal Consultation Date: 13 March 2018 / The applicant elected to provide a statement on their behalf; however, were not found to be in the record.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 30 March 2018 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Reenlistment Under Review: 4 April 2016 / 5 years

b. Age at Enlistment / Education / GT Score: 19 / High School Diploma / 127

c. Highest Grade Achieved / MOS / Total Service: E-4 / 25S1O Satellite Communication Systems Specialist / 5 years, 0 months, 25 days.

d. Prior Service / Characterizations: Regular Army, 21 May 2013 – 3 April 2016 / Honorable

e. Overseas Service / Combat Service: None

f. Awards and Decorations: AAM, AGCM, NDSM, GWOTSM, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: The Enlisted Record Brief provides the applicant was flagged (Suspend Favorable Personnel Actions (FLAG)) on 13 March 2018, for field-initiated involuntary separation (BA).

(1) Two self-authored statements, one undated and the other dated 21 January 2022, through counsel, the applicant provides they served honorably from 2013 to 2018 with multiple awards for technical excellence and dedication. They later disclosed personal misconduct stemming from unresolved childhood trauma and sexual abuse, which they begin recalling and addressing through counseling in 2016. The applicant acknowledged this trauma led to emotional instability and marital problems, culminating in extramarital relationships which were never known to the Army, until self-reported during a security interview. They expressed deep remorse, accepted full responsibility, and have since demonstrated personal growth, professional success, and psychological recovery. The applicant emphasized their conduct never affected duty performance or military discipline and requested an opportunity for continued service or honorable recognition of their record (**Exhibits 5,13**).

(2) On 23 September 2022, a request was made to the Criminal Investigation Command (CID) for any records pertaining to the applicant and on 4 October 2022, CID provided no records were found.

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

j. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See “**Board Discussion and Determination**” for Medical Advisor Details.

(1) **Applicant provided:** The applicant provided 54 pages of medical records, dated between 29 September 2017 – 11 May 2018, which indicated a diagnosis of Personal History of Physical and/or Sexual Abuse in Childhood, and additionally ruled out Posttraumatic Stress Disorder (PTSD) (**Exhibits 8,9,11,12**).

(2) **AMHRR provided:** None

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Legal Letter; Legal Brief; **Exhibits:** Certificate of Release or Discharge from Active Duty (**1**); Awards (**2,3**); Marriage Certificate (**4**); Two Self-Authored Statements (**5,13**); Character Letters (**6**); Separation Proceedings (**7**); Medical Records (**8,9,11,12**); Recommendation Letter (**10**)

6. POST SERVICE ACCOMPLISHMENTS: FAA (Federal Aviation Administration) contractor, demonstrates rehabilitation and a strong character.

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

a. 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.

b. 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.

c. 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.

d. 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.

e. 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 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.

f. 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. It states:

(a) 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.

(b) 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.

(c) 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.

(d) A Bad Conduct discharge will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a Bad Conduct Discharge. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD.

(e) A Dishonorable discharge is the most severe type of discharge and will be given to a Soldier pursuant only to an approved sentence of general or special court-martial. The appellate review must be completed and affirmed sentence ordered duly executed. Behaviors such as fraud, desertion, treason, espionage, sexual Assault, and murder and other actions may be punished with a dishonorable discharge.

(f) An separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status. Unless the DCS, G-1, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority. A

Soldier is in an entry-level status (ELS) if the Soldier has not completed more than 180 days of creditable continuous active duty prior to the initiation of separation action.

(2) 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. 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.

g. 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).

8. SUMMARY OF FACT(S): Standard of Review. 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 corresponding changes be made to their narrative reason, separation authority, and separation code. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. An authenticated DD Form 214 reflects the applicant was discharged under the provisions of AR 635-200, Chapter 14-12C for misconduct (serious offense) with a general (under honorable conditions) characterization of service. In March 2018, the applicant was flagged for involuntary separation for committing adultery with five different individuals which were not their spouse. The applicant consulted with legal and elected to provide a statement on their behalf. They served 2 years, 2 months, and 11 days of a 5-year contractual obligation.

(1) The applicant contends, through counsel, their discharge was unjust, as their private conduct did not meet the UCMJ standard for adultery or prejudice to good order and discipline. Their behavioral health conditions, stemming from childhood trauma, were mitigating factors under the Hagel, Kurta, and Wilkie memoranda. With four years of meritorious service and no prior misconduct, equitable relief is warranted and their discharge should be upgraded to honorable.

(2) Although the record is void of the required separation examination(s), the applicant provided medical records dated between 29 September 2017 – 11 May 2018, which indicated a diagnosis of Personal History of Physical and/or Sexual Abuse in Childhood and additionally ruled out PTSD.

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.** 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: Anxiety Disorder, applicant asserts pre-service sexual assault victim.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 30 percent SC for Anxiety Disorder, and the asserted SA occurred prior to service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined the applicant's misconduct characterized by Adultery is not natural sequela of Anxiety Disorder and therefore not mitigated. The applicant was also diagnosed with Personal History of Physical and/or Sexual Abuse in Childhood during military service, however, this condition is not a mental health diagnosis per the DSM, but instead it is a Z code used to focus treatment. It should also be noted that although the applicant underwent a round of treatment, consisting of multiple sessions, applicant did not endorse symptoms sufficient to meet criteria for PTSD. Additionally, although the MSE examiner noted they believed the applicant's history of childhood abuse should be considered a mitigating factor, there is no evidence in the record that the applicant's abuse history impaired the ability to differentiate between right and wrong and adhere to the right, at the time of the misconduct and therefore does not mitigate the misconduct.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's Anxiety Disorder or asserted pre-service SA outweighed the basis for applicant's separation – up to five affairs – for the aforementioned reason(s).

b. Prior Decisions Cited: N/A

c. Response to Contention(s): The applicant contends, through counsel, their discharge was unjust, as their private conduct did not meet the UCMJ standard for adultery or prejudice to good order and discipline. Their behavioral health conditions, stemming from childhood trauma, were mitigating factors under the Hagel, Kurta, and Wilkie memoranda. With four years of meritorious service and no prior misconduct, equitable relief is warranted and their discharge should be upgraded to honorable. The applicant was described by superiors and peers as an exceptional, disciplined Soldier who led by example, demonstrated loyalty, professionalism, and

integrity, took responsibility for personal mistakes, sought help to heal and improve, and consistently upheld the Army Values through service, mentorship, and resilience.

The Board considered the totality of the applicant's service record, but determined the applicant's discharge was appropriate because the quality of the applicant's service was not consistent with the Army's standards for acceptable personal conduct and performance of duty by military personnel. It brought discredit on the Army, and was prejudicial to good order and discipline. By committing adultery up to five times, the applicant diminished the quality of service below that meriting an honorable discharge at the time of separation.

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) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

(2) 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 Anxiety Disorder or asserted pre-service SA diagnoses did not excuse or mitigate adultery. 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 Honorable discharge.

(3) 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.

(4) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20220005742

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:

1/15/2026



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
FTR – Failure to Report

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

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

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