

**1. Applicant's Name:** [REDACTED]

- a. **Application Date:** 3 February 2023
- b. **Date Received:** 23 February 2023
- 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 under other than honorable conditions. The applicant did not properly annotate the enclosed application requesting a possible discharge upgrade. The Army Discharge Review Board considered the applicant for a possible upgrade as instructed in pertinent part by Department of Defense Instruction 1332.28, which stipulates a request for review from an applicant without an honorable discharge shall be treated as a request for a change to an honorable discharge unless the applicant requests a specific change to another character of discharge.

b. The applicant seeks relief contending, in effect, they did not receive proper guidance and support from their squad leader or company commander while serving as a reservist. Several attempts to change their reserve training center were made but were also denied. The applicant made attempts to remain in service and strive for other things all at the same time, which ended up being a blessing and a curse. The applicant is requesting an upgrade to seek reenlistment or commission into the United States Army or another branch of service. The applicant hopes their post service accomplishment assists them in being granted a second chance in receiving a discharge upgrade to embark on the journey of becoming a cyber and technology officer in the United States Army.

c. **Board Type and Decision:** In a telephonic personal appearance conducted on 5 February 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length of service and post-service accomplishments outweighing the applicant's Unsatisfactory Participation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them.

*Please see Section 10 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:** Unsatisfactory Participation / AR 135-178, Chapter 12 / NA / NA / Under Other Than Honorable Conditions

b. **Date of Discharge:** 1 June 2018

c. **Separation Facts:** The applicant's AMHRR is void of the case separation file. However, the applicant provided documents which are described below in 3c(1) through (6).

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

**(2) Basis for Separation:** The reason for the commander's proposed actions was the applicant accrued nine or more unexcused absences from scheduled inactive duty training during a one-year period. On 21 December 2017, the applicant's commander mailed the applicant the notification with a suspense of 30 days to acknowledge the notice and rights.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

**(4) Legal Consultation Date:** The applicant failed to respond to the notification of separation, thereby waiving right to counsel.

**(5) Administrative Separation Board:** The applicant failed to respond to the notification of separation, thereby waiving right to an administrative separation board.

**(6) Separation Decision Date / Characterization:** NIF

#### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 26 February 2016 / 8 years

**b. Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 100

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 88M10, Motor Transport Operator / 2 years, 3 months, and 7 days

**d. Prior Service / Characterizations:** IADT, 17 May - 12 September 2016 / HD  
(Concurrent Service)

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

**f. Awards and Decorations:** NDSM, ASR

**g. Performance Ratings:** None

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

**(1)** Letter of Instructions - Unexcused Absence, dated 1 November 2016, shows the applicant was absent from multiple unit training assemblies (MUTA) on 22 October 2016 (UTA 1 and 2) and 23 October 2016 (UTA 1 and 2). Affidavit of Service by Mail, shows the Letter of Instructions, dated 22 November 2016, was mailed to the applicant via certified mail on 22 November 2016.

**(2)** Letter of Instructions - Unexcused Absence, dated 24 March 2017, shows the applicant was absent from MUTA on 18 March 2017 (UTA 1 and 2). Affidavit of Service by Mail, shows the Letter of Instructions, dated 27 March 2017, was mailed to the applicant via certified mail on 27 March 2017.

**(3)** Letter of Instructions - Unexcused Absence, dated 24 May 2017, shows the applicant was absent from MUTA on 20 May 2017 (UTA 2) and 21 May 2017 (UTA 1 and 2). Affidavit of Service by Mail, shows the Letter of Instructions, dated 30 May 2017, was mailed to the applicant via certified mail on 30 May 2017.

**(4)** Letter of Instructions - Unexcused Absence, dated 12 June 2017, shows the applicant was absent from MUTA on 10 June 2017 (UTA 1 and 2) and 11 June 2017 (UTA 1

and 2). Affidavit of Service by Mail, shows the Letter of Instructions, dated 28 June 2017, was mailed to the applicant via certified mail on 28 June 2017.

(5) Letter of Instructions - Unexcused Absence, dated 13 September 2017, shows the applicant was absent from MUTA on 8 September 2017 (UTA 1 and 2) and 9 September 2017 (UTA 1 and 2). Affidavit of Service by Mail, shows the Letter of Instructions, dated 19 September 2017, was mailed to the applicant via certified mail on 19 September 2017.

(6) DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), dated 19 September 2017, shows the applicant was flagged for involuntary separation/field initiated (BA), effective 8 September 2017.

(7) Developmental Counseling Form, dated 19 September 2017, shows the applicant failed to report to duty on 21 May, 10-11 June, 15-16 July, and 8-10 September 2017. Attempts were made on multiple occasions to contact the applicant by phone, military and civilian e-mail addresses, resulting in no responses. In addition, the commander tried to locate the applicant through Facebook but was unable to find a profile that matched. The unit has been unable to communicate with the applicant. The applicant's behavior has violated Article 86, Uniform Code of Military Justice (UCMJ), because the applicant failed to report to their place of duty at the prescribed times in which the applicant has accrued 12 unexcused absences. The applicant also violated Article 91 and Article 92, UCMJ because the applicant willfully violated lawful orders given by the commander. The applicant would be recommended for separation under the provision of unsatisfactory participant per AR135-178, chapter 13. The applicant was unavailable for signature or comment.

(8) On 21 December 2017, the commander initiated action to separate the applicant from the United States Army Reserve (USAR) under AR 135-178, chapter 12, for unsatisfactory participation because the applicant accrued nine or more unexcused absences from scheduled inactive duty training during a one year period.

(9) Orders 18-144-00018, dated 24 May 2017, shows the applicant was reduced from private first class (PFC/E-3) to private (PVT/E-1). The applicant was discharged from the USAR effective 1 June 2018 with an under other than honorable conditions characterization of service.

**i. Lost Time / Mode of Return: NIF**

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

**(1) Applicant provided: None**

**(2) AMHRR Listed: None**

**5. APPLICANT-PROVIDED EVIDENCE:** Two DD Forms 293; two applicant self-authored letters; AAM certificate; DD Form 214; five Memorandums, Letter of Instructions; five affidavits of service by mail; DA Form 268; developmental counseling form; commander notification of initiation of separation; separation orders; college and transcript diploma; two professional certifications; eight character references.

**6. POST SERVICE ACCOMPLISHMENTS:** Graduated Cum Laude with a Bachelor of Science in Exercise and Sports from Ferrum College in 2020. Enrolled in Northern VA Community College to obtain a associates degree in Cyber Security. Selected as Presidential Scholar honoree and Dean's List honoree in 2022 at Northern VA Community College. Two Professional Certifications in Network Plus and Executive Leadership. The applicant participated in and

organized volunteer opportunities in the Northern Virginia area, such as clothing and toy drives, athletic skills camps, and adopt-a highway cleanups. The applicant is captain of several nationally recognized flag football teams and was employed as a federal protective security officer at the Federal Communications Commission.

#### **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), 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 135-178 prescribes the policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and USAR enlisted Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) Paragraph 2-9a prescribes an honorable characterization 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) Paragraph 2-9b, prescribes, if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as general (under honorable conditions). Characterization of service as general (under honorable conditions) is warranted when significant negative aspects of the Soldier's conduct or performance of duty outweigh positive aspects of the Soldier's military record.

(3) Paragraph 2-9c, prescribes the service may be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, unsatisfactory participation, or security reasons, and under other circumstances. No Soldier will be discharged in accordance with this regulation, with service characterized as under other than honorable conditions, unless they are afforded the right to present their case before an administrative separation board. The Soldier will be afforded the advice and assistance of counsel. Such discharge must be supported by approved board findings, and an approved board recommendation for discharge under other than honorable conditions. As an exception, a discharge with service characterized as under other than honorable conditions may be issued without board action if the Soldier waives their right to board action. When a Soldier is to be discharged under other than honorable conditions, the separation authority will direct an immediate reduction to private (PVT/E-1), in accordance with AR 600-8-19 (Enlisted Promotions and Reductions).

(4) Chapter 12, provides in pertinent part, that individuals can be separated for being an unsatisfactory participant. Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because: The Soldier is an unsatisfactory participant as prescribed by AR 135-91, chapter 4; Attempts to have the Soldier respond or comply with orders or correspondence.

(5) Paragraph 12-3, prescribes the service of Soldiers separated under this chapter will be characterized as honorable or under honorable conditions as determined under chapter 2, section III, unless an uncharacterized description of service is warranted under paragraph 2-11.

(6) Chapter 13, 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 memorandums. Secretarial separation authority is normally exercised on a case-by-case basis.

**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. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR includes partial facts and circumstances concerning the events which led to the discharge from the Army Reserve. On 21 December 2017, the commander initiated action to separate the applicant from the USAR under AR 135-178, chapter 12, for unsatisfactory participation because the applicant accrued nine or more unexcused absences from scheduled inactive duty training during a one year period (October 2016 - September 2017). The applicant's AMHRR contains a properly constituted discharge order: Orders 18-144-00018, dated 24 May 2017. The orders indicate the applicant was discharged under the provisions of AR 135-178, with a characterization of service of under other than honorable conditions.

c. The applicant contends, in effect, they did not receive proper guidance and support from their squad leader or company commander while serving as a reservist. Several attempts to change their reserve training center were made but were also denied. The applicant did not provide evidence for this contention and the AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

d. The applicant requests an upgrade to seek reenlistment or commission into the United States Army or another branch of service. The applicant hopes their post service accomplishment assists them in being granted a second chance in receiving a discharge upgrade to embark on the journey of becoming a cyber and technology officer in the United States Army. At the time of discharge, the applicant received an under other than honorable conditions characterization of service. The applicant's discharge orders do not reflect a reentry code; therefore, the applicant should contact a local recruiter to determine eligibility to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of a reentry code if appropriate.

e. The eight character letters provided with the application speak highly of the applicant and all recommend that the applicant be given a second chance in rejoining the Army.

f. The applicant graduated Cum Laude with a Bachelor of Science in Exercise and Sports from Ferrum College in 2020. Enrolled in Northern VA Community College to obtain a associates degree in Cyber Security. Selected as Presidential Scholar honoree and Dean's List honoree in 2022 at Northern VA Community College. Two Professional Certifications in Network Plus and Executive Leadership. The applicant participated in and organized volunteer opportunities in the Northern Virginia area, such as clothing and toy drives, athletic skills camps, and adopt-a highway cleanups. The applicant is captain of several nationally recognized flag football teams and was employed as a federal protective security officer at the Federal Communications Commission. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. However, there is no law or



regulation which provides an unfavorable discharge may be upgraded based solely on the passage of time or good conduct in civilian life subsequent to leaving the service. Outstanding post-service conduct, to the extent such matters provide a basis for a more thorough understanding of the applicant's performance and conduct during the period of service under review, is considered during Board proceedings. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

**g.** 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. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE:** In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

**a. The applicant submitted the following additional document(s):** Applicant provided oral argument and statements in support of the contentions provided in written submissions and in support of previously submitted documentary evidence.

**b. The applicant presented the following additional contention(s):** N/A

**c. Counsel / Witness(es) / Observer(s):** N/A

**10. 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**

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

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

**b. Response to Contention:** The applicant contends the applicant did not receive proper guidance and support from the applicant's squad leader or company commander while serving as a reservist. Several attempts to change the applicant's reserve training center were made but were also denied. The Board considered this contention and determined that the applicant's characterization of service was too harsh based on the applicant's length of service and post-service educational accomplishments. The Board did not find sufficient mitigating factors to warrant an upgrade of the applicant's narrative reason for separation.

**c.** The Board determined that the characterization of service was inequitable based on the applicant's length of service and post-service accomplishments outweighing the applicant's

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20230006193**

Unsatisfactory Participation. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General. The Board determined the narrative reason/SPD code were proper and equitable and voted not to change them. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to General because the applicant's length of service and post-service accomplishments outweighing the applicant's Unsatisfactory Participation. The applicant's General discharge is proper and equitable as the applicant's misconduct fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code, as the reason the applicant was discharged was both proper and equitable.

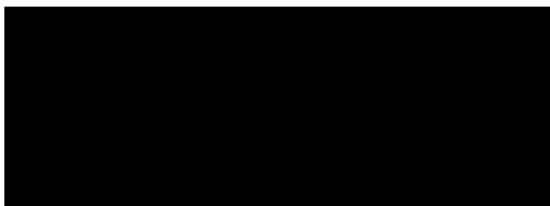
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**11. BOARD ACTION DIRECTED:**

- a. Issue a New Separation Order: Yes**
- b. Change Characterization to: General**
- c. Change Authority to: AR 135-178**

**Authenticating Official:**

3/12/2024



**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