

1. Applicant's Name: [REDACTED]

- a. Application Date: 19 July 2023
- b. Date Received: 14 August 2023
- c. Counsel: None

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 under other than honorable conditions. The applicant requests an upgrade of their U.S. Army Reserve (USAR) characterization of service and an appearance before a traveling Board.

(2) The applicant seeks relief stating their discharge was improper due to the lack of information given, if all the information was presented properly, their discharge would have been different. While they were living in Dallas, TX, they were in an abusive relationship and the only way they could protect themselves and their children was to move in with their mother, so they had to transfer to a different unit. Their Other Than Honorable Conditions discharge was improper because they were discharged due to attendance at a unit with was 45 minutes to an hour away from their home address in another state. They were not getting paid to drive or provided lodging and they could not afford to pay for it themselves.

(3) They have tried to still make the Army proud by becoming a model civilian and trying to live the American dream by starting their own business, volunteering with battered and abused women, and helping the homeless.

b. Board Type and Decision: In a records review conducted on 03 June 2024, and by a 5-0 vote, the board determined that the characterization of service was inequitable based on the applicant in service factors (length of service and harassment suffered from a member in the unit). Accordingly, the board voted to grant relief in the form of an upgrade to the characterization of service to honorable.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: NIF / Army Regulation 135-178 / Under Other Than Honorable Conditions

b. Date of Discharge: 17 June 2013

c. Separation Facts: The applicant's Army Military Human Resource Record (AMHRR) is void of their case files for approved separation. On 1 October 2023 the Army Review Boards Agency requested the applicant provide their discharge packet (case separation files), as of this date there has been no response.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 7 December 2007 / 8 years (USAR)

b. Age at Enlistment / Education / GT Score: 21 / HS Graduate / NIF

c. Highest Grade Achieved / MOS / Total Service: E-2 / 92A10, Automated Logistical Specialist / 5 years, 6 month, 11 days (USAR)

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDS, ASR

g. Performance Ratings: None

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was released from active duty training on 20 June 2008, after completing their initial active duty training and assigned to the 354th Medical Company in Seagoville, TX. Item 24 (Character of Service) is shown as Uncharacterized.

(2) The Headquarters, Army Reserve Medical Command Orders 08-199-00064, dated 17 July 2008, reflects the applicant reassignment from the Army Medical Command Trainees, Transients, Holdees, and Students (TTHS) to the 354th Medical Company in Seagoville, TX, effective 17 July 2008.

(3) The Headquarters, 88th Regional Support Command Orders 13-161-00002, dated 10 June 2013, reduced the applicant in rank/grade from specialist/E-4 to private/E-1 effective 10 June 2013, and discharged the applicant from the U.S. Army Reserve with an effective date of 17 June 2013, with the type of discharge as Under Other Than Honorable Conditions. The applicant's address is shown as the same address as their father's and their unit is shown as the 807th Medical Command Administrative Detachment in Salt Lake City, UT.

(4) A DA Form 5016 (Chronological Statement of Retirement Points) dated 24 April 2024, reflects –

- from 8 December 2007 – 7 December 2008, the applicant has 13 Inactive Duty Points (equivalent to 6.5 days of unit drills), and 150 active duty points (150 days of active duty)
- from 8 December 2008 – 7 December 2009, the applicant has 29 Inactive Duty Points (equivalent to 14.5 days of unit drills)
- from 8 December 2009 – 7 December 2010, the applicant has 37 Inactive Duty Points (equivalent to 18.5 days of unit drills)
- from 8 December 2010 – 7 December 2011, the applicant was credited with 36 Inactive Duty Point (equivalent to 18 days of unit drills)
- from 8 December 2011 – 7 December 2012, the applicant was credited with 0 Inactive Duty Point (equivalent to 0 days of unit drills)
- from 8 December 2012 – 7 December 2013, the applicant was credited with 0 Inactive Duty Point (equivalent to 0 days of unit drills)

i. Lost Time / Mode of Return: NIF

j. Behavioral Health Condition(s): NIF

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States), with letter
- Two 3rd Party Statements, sisters
- License of Cosmetologist Certificate

6. POST SERVICE ACCOMPLISHMENTS: License of Cosmetologist Certificate

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, 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. Multiple Department of Defense (DoD) 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; Title 10 U.S. Code; Section 1553, DoD Directive 1332.41, and DoD Instruction 1332.28.

d. Army Regulation 135-178 (Enlisted Administrative Separations) set policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of ARNG of the United States and USAR enlisted Soldiers for a variety of reasons.

(1) 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. When a Soldier is discharged before expiration of the service obligation for a reason for which an honorable characterization is discretionary, the following considerations apply, to include –

(a) An honorable characterization may be awarded when disqualifying entries in the Soldier's military record are outweighed by subsequent honorable and faithful service over a greater period of time during the current term of service.

(b) It is a pattern of behavior and not an isolated instance which should be considered the governing factor in determining the character of service.

(c) Unless otherwise ineligible, a Soldier may receive an honorable characterization of service if he or she has, during his or her current enlistment, or any extension thereof, received a personal decoration.

(2) A General discharge is if a Soldier's service has been honest and faithful, it is appropriate to characterize that service as under honorable conditions. Characterization of service as general (under honorable conditions) is warranted when significant negative aspect of the Soldier's conduct or performance of duty outweighs positive aspects of the Soldier's military record.

(3) A Under Other Than Honorable Conditions Discharge, service may, but is not required to be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, homosexual conduct, unsatisfactory participation, or security reasons. The Adjutant General will direct reduction in grade to private/E-1 when the Soldier is discharged under other than honorable conditions.

e. Army Regulation 135-180 (Retirement for Non-Regular Service) dated 1 August 1987, implemented statutory authorities governing the granting of retired pay to Soldiers and former Reserve components Soldiers. Paragraph 2-10 (Computation of Service) stated one point for each authorized participation in drills or periods of instruction which conform to the requirements prescribed by the Secretary of the Army.

f. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) prescribes policies and standards 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, authority for separation of Soldiers, 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. Chapter 15 (Secretarial Plenary Authority) 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.

g. Army Regulation 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents.

a. Paragraph 5-1 (When to Prepare the DD Form 214) states that a DD Form 214 will be prepared for Reserve Component Soldiers completing active duty that results in the award of a Military Occupational Specialty, even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

b. Paragraph 5-6x (1) states: when a Reserve Component Soldier successfully completes initial active duty training the character of service is Honorable unless directed otherwise by the separation approval authority."

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 available evidence provides an administrative irregularity in the proper retention of records, specifically the AMHRR is void of the case files for approved separation and only contains one document after their completion of their initial active duty training. Due to the lack of evidence, the specific facts and circumstances surrounding the misconduct that led to their discharged under the provision on Army Regulation 135-178 are unknown. Notwithstanding the absence of records, their discharge order from the USAR provides the applicant was discharged with a character of service of under other than honorable conditions. They completed 5 years, 6 months, and 11 days of their 8-year contractual USAR obligation and did not complete their first full term of service.

c. 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, which were void of diagnoses or experiences. However, the applicant asserts IPV which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant asserts being a victim of IPV directly related to her discharge.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that based on what is available prior to the Board, there is no mitigation. However, the applicant's testimony surrounding asserted IPV allowed for mitigation.

(4) Does the condition or experience outweigh the discharge? **Yes.** The suffered harassment added to the reluctance of the applicant attending battle assembly.

b. Response to Contention(s):

(1) The applicant contends their discharge was improper due to the lack of information given, if all the information was presented properly, their discharge would have been different. The board considered this contention but found insufficient evidence in the applicant's AMHRR or applicant-provided evidence to show that the discharge was improper. However, the board did determine to upgrade the applicant's characterization of service to honorable based on the applicant in service mitigating factors (length of service and harassment suffered from a member in the unit).

(2) The applicant contends while they were living in Dallas, TX, they were in an abusive relationship and the only way they could protect themselves and their children was to move in with their mother, so they had to transfer to a different unit. Their Under Other Than Honorable Conditions discharge was improper because they were discharged due to attendance at a unit with was 45 minutes to an hour away from their home address in another state. They were not getting paid to drive or for lodging and they could not afford to pay. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as outlined above in paragraph 9b (1).

(3) The applicant contends stating they have tried to still make the Army proud by becoming a model civilian and trying to live the American dream by starting their own business, volunteering with battered and abused women, and helping the homeless. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as outlined above in paragraph 9b (1).

c. The board determined that the characterization of service was inequitable based on the in service mitigating factors of (length of service and harassment suffered from a member in the

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unit) outweighed the applicant's unsatisfactory participation. Accordingly, the board voted to grant relief in the form of an upgrade to the characterization of service to honorable.

d. Rationale for Decision:

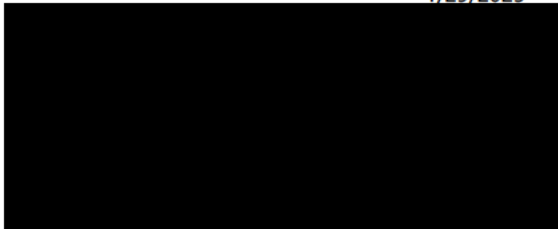
(1) Although the applicant's separation packet was not provided, the board found evidence and made a finding of fact that the applicant's basis of separation was Unsatisfactory Participation (missing drill). Therefore, the board voted to change the applicant's characterization of service to honorable because of in service mitigating factors of (length of service and harassment suffered from a member in the unit) outweighed the applicant's unsatisfactory participation. Thus, the prior characterization is no longer appropriate.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: Yes**
- b. Change Characterization to: Honorable**
- c. Change Authority to: AR 135-175**

Authenticating Official:

1/29/2025



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