

1. Applicant's Name: [REDACTED]

a. **Application Date:** 23 September 2023

b. **Date Received:** 29 September 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 General (Under Honorable Conditions). The applicant requests an upgrade to Honorable, a change to the narrative reason for separation, and a RE code change.

b. The applicant seeks relief contending, a wrongful discharge from service and the circumstances surrounding their discharge were unjust, and request reinstatement, along with the recouping of their military pay and active time in service. The applicant served Honorably between 2005 – 2009, was dedicated to their duties throughout, and their commitment to uphold the values and standards of the United States Army was unwavering. Their discharge was incorrect for the following reasons: (1) There was no concrete evidence provided during the administrative board process to prove any misconduct on the applicant's part; (2) The promotion board's actions were invalidated due to misconduct of first sergeant, thereby nullifying any allegations against the applicant; (3) Due to a lack of access to S1 or Administrative Offices, it was shown that the applicant had no means to audit or alter documents, disputing claims against them; (4) The applicant was a victim of assault and threats by 1SG, which influenced their reluctance to testify; (5) All of the actions against the applicant were retaliation which notably escalated after they filed a Congressional complaint; (6) The applicant received a letter of reprimand for the same issues cited in their administrative separation action issued by lieutenant colonel which effectively subjected them to double jeopardy and is not permissible even in federal military justice processes.

(1) The applicant hired a civilian lawyer for their administrative separation board. The civilian lawyer requested a military lawyer from outside Fort Sill, OK, with this request being seconded by sergeant major. However, the board denied this request without providing any reasoning. There was also a request for a Black minority member and gender representation on the board, but this request was also denied without explanation. Due to the denials without explanation, SGM advised the applicant to pursue a congressional hearing. However, this had a negative repercussion as it was against Fort Sill itself, and it locked the proceedings, preventing anyone from outside Fort Sill from participating. During the administrative separation board, there were no proof of the applicant having had access to the S1 office to submit paperwork or any documents into their own file. One board member (SGM), stated that nothing in the case was relevant or could be used against the applicant due to the conduct of 1SG, but this statement was ignored.

(2) Lieutenant Colonel reviewed all documentation and made a judgement call based on the lack of evidence provided by the staff judge advocate's office at the time. The applicant was allowed to be assigned to the ADA (Air Defense Artillery) unit and authorized for reenlistment. In the midst of these developments, the applicant found themselves (with five children) in a challenging predicament. They had received official orders for reassignment to Fort Bliss, TX and had already taken proactive steps, such as scheduling the pickup and clearance of their household goods, in preparation for their relocation. However, a startling turn of events occurred when the SJA office purportedly acting with authorization from a higher authority, falsely asserted that the applicant's orders had been voided. In a bewildering twist, they adamantly

demanded that the applicant report to their current unit instead of complying with the applicant's Fort Bliss orders.

(3) This directive left the applicant in a perplexing situation, torn between following what they believed was their legitimate orders and adhering to the SJA office's conflicting instructions. It was only later, after the applicant failed to report to their unit due to the misleading information and it became apparent that their orders had not been voided. In fact, their reassignment orders were canceled subsequent to the applicant's non-compliance with the SJA office's directives. Adding to the complexity of the situation, two days after this tumultuous change of command and the subsequent order confusion, the new commander requested the applicant's reassignment to their unit. Furthermore, the commander sought to prosecute them for the same issues for which the applicant had already received a letter of reprimand. This rapid sequence of events only deepened the legal and administrative complexities surrounding their case.

(4) The applicant had also experienced sexual assault by 1SG, which the applicant did not report fully due to fear and intimidation. The command showed no concern for their situation and did not provide access to medical treatment or mental health support. This fear carried over for many years and treatment protracted, which caused the applicant to miss their first appeal to the board. There was no malice in not appearing, there were many more years of treatment needed to address the trauma experienced while in service.

(5) During the administrative separation board, their civilian counsel advised the applicant that they would not receive a fair ruling and recommended pursuing legal appeal through the board. In conclusion, the series of events leading up to their unjust prosecution and subsequent release from active duty, reveals a disturbing lack of fairness and due process in their case. Despite the tumultuous circumstances and legal entanglements, it was important to note the applicant's military record, up until then, remained remarkably unblemished. Throughout their service, the applicant consistently demonstrated honor, respect, and unwavering dedication to their fellow Soldiers. Therefore, the applicant requests the wrongful discharge be overturned and expunged from their military record, reinstate their active duty time in service, recoup any withheld military pay, and restore lost benefits. Given the gravity of these errors and injustices, the applicant urged for an expedited review of this appeal, as their career, reputation, and family's wellbeing hang in the balance.

c. Board Type and Decision: In a telephonic personal appearance hearing conducted on 10 March 2025, and by a 3-2 vote, the Board determined the discharge is inequitable based on the applicant's Major Depressive Disorder (MDD), PTSD, and MST mitigating the applicant's wrongful submission of an Army Physical Fitness Test Scorecard and a Record firing scorecard basis for separation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable and changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

*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: Misconduct (Serious Offense) / AR 635-200, Chapter 14-12C / JKQ / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 23 January 2009

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 28 August 2008

(2) Basis for Separation: On or between 5 November 2007 – 31 January 2008, with intent to defraud, they wrongfully submitted an Army Physical Fitness Test Scorecard (DA Form 705) indicating a total score of 290 points and a Record Firing Scorecard (DA Form 5790-R) scaled target alternate course indicating a hit count of 39 out of 40, which were, as they then well knew, falsely made.

(a) On or between 1-31 January 2008, with intent to deceive, they wrongfully submitted an official record, Promotion Point Worksheet, which was false in that the DA Form 705 and A Form 5790-R, upon which the DA Form 3355 relies, were, as the applicant then well knew, falsely made.

(b) On 28 February 2008, they agreed to answer questions from the investigating officer (CPT). Their answer to CPT's question, "How did [the applicant] find out that [their] promotion package was pulled?" was, "[The applicant] decline to answer this question [at] this time. [They were] taught as NCO's to be loyal to those whom [they] serve. And to know [their] soldiers and place [their] needs above [the applicant's] own. [They] will not go against the values that true leaders promote, the one's [sic] that really care about the wellbeing of [their] soldiers because there are not many left." [The applicant] behaved [themselves] with disrespect toward CPT in [the applicant's] answer to [their] question. [The applicant was] also derelict in the performance of [their] duties to answer the question.

(c) In the same statement to CPT, [the applicant] answered that you took more than on APFT in October 2007 and scored a 290 during one of the APFTs; and that [the applicant] scored 39 on one of [their] weapon qualifications. These official statements were totally false and then known to [the applicant] to be false.

(3) Recommended Characterization: Under Other than Honorable Conditions

(4) Legal Consultation Date: 4 September 2008

(5) Administrative Separation Board: On 4 September 2008, the applicant conditionally waived their right to appear before an administrative separation board, contingent upon having received at least an Honorable characterization of service. The conditional waiver was disapproved on 12 September 2008, and the case remained referred to an administrative separation board; however, the record is void of those proceedings.

(6) Separation Decision Date / Characterization: NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 12 June 2008 / 4 years (second reenlistment)

b. Age at Enlistment / Education / GT Score: 30 / Master's Degree / 112

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c. Highest Grade Achieved / MOS / Total Service: E-6 (SSG) / 27D20 Paralegal Specialist / 12 years, 6 months (68W10 Health Care Specialist / 3 years, 2 months)

d. Prior Service / Characterizations: Army National Guard (ARNG), 26 April 1996 – 31 May 1997 / UNC

- Break in Service
- ARNG, 12 March – 15 July 1999 / UNC
- Break in Service
- ARNG, 16 January – 24 February 2004 / NA
- Individual Active Duty Training (IADT), 25 February – 24 July 2004 / UNC
- ARNG, 25 July 2004 – 21 July 2005 / HON
- Regular Army (RA), 22 July – 16 November 2005 / HON
- ARNG, 17 November 2005 – 17 January 2006 / HON
- RA, 12 January 2006 – 14 May 2007 / HON
- RA, 15 May 2007 – 11 June 2008 / HON

e. Overseas Service / Combat Service: None

f. Awards and Decorations:

- Army Commendation Medal
- Army Achievement Medal (Second Award)
- Army Good Conduct Medal
- National Defense Service Medal
- Noncommissioned Officer Professional Development Ribbon
- Army Service Ribbon

g. Performance Ratings: 1 March – 30 June 2007 / Fully Capable

h. Disciplinary Action(s) / Evidentiary Record: The Enlisted Record Brief provides on 27 February 2008, they were flagged, Suspend Favorable Personnel Actions (FLAG), for adverse action (AA). Fifteen sworn statements provide specific facts and circumstances surrounding the below investigation dated between 28 February – 6 March 2008. On 14 April 2008, the investigating officer (IO) provided the findings and recommendations into possible violations of Article 107, UCMJ, for having made false official statements and a procedural error relating to a promotion board on 6 November 2007. The IO found the applicant to have violated Article 123, UCMJ (forgery), for having altered and/or forged official documents, and provided the following recommendations: Field Grade Article 15, removed from their brigade position, and involuntarily separation for serious misconduct.

(1) On 22 May 2008, the applicant received a General Officer Memorandum of Reprimand which reflected the 15-6 Investigation that was initiated on or about 26 February 2008, with the allegation of having altered their Weapons Qualification Card (DA Form 5790-R, dated 1 October 2007) and Physical Fitness Training Card (DA Form 705, dated 19 October 2007).

(2) On 12 June 2008, the applicant completed their second reenlistment in the Regular Army for 4 years as a sergeant, SGT (E-5), with nearly 9 years of inactive service (ARNG) and 3 years, 7 months, and 15 days of active duty.

(3) On 28 August 2008, the company commander notified the applicant of their intent to initiate separation proceedings under the provisions of AR 635-200, Chapter 14-12C,

Misconduct (Serious Offense), for the abovementioned reasons in **3c (2)** and recommended an Under Other than Honorable Conditions characterization of service. On 4 September 2008, the applicant acknowledged receipt of their separation notice, elected to consult with legal, and declined to submit a statement on their behalf. Moreover, they submitted a conditional waiver of their right to appear before an administrative separation board contingent upon having received an Honorable discharge, which was disapproved and referred to an administrative separation board on 12 September 2008.

(a) On 24 October 2008, a request to have the applicant's enlistment revoked due to their having been flagged pursuant to AR 600-82, on 22 February 2008 was submitted to the separation authority and was approved on 28 October 2008, as the flag barred them from reenlistment.

(b) On 15 January 2009, the applicant completed a separation medical examination at Reynolds Army Health Clinic (RACH), Fort Sill, OK and was qualified for service/separation. Although the board's report of proceedings and/or the separation authority's approval are not in the record, on 20 January 2009, the separation orders were issued and a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty) reflected a General (Under Honorable Conditions) characterization of service, with 12 years, 8 months, and 28 days of total service. Their physical signature was provided and they had completed their first full term of service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s): The applicant has asserted they experienced military sexual assault by first sergeant, which they did not report fully due to fear and intimidation. The command showed no concern for their situation and did not provide access to medical treatment or mental health support. This fear carried over for many years and treatment processes, which caused the applicant to miss their first appeal to the board. There was no malice in not appearing but there was many more years of treatment needed to address the trauma they experienced in service.

(1) Applicant provided: Assertion of Sexual Assault.

(2) AMHRR Listed: On 14 January 2009, the applicant completed a mental status evaluation at the RACH Community Mental Health Services, which diagnosed them with Adjustment Disorder with Anxiety Type and Depressed Mood. The BH provider indicated the applicant was at the time, being treated and was psychiatrically cleared for administrative actions deemed appropriate.

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Self-Authored Statement

6. POST SERVICE ACCOMPLISHMENTS: The applicant has earned their Masters of Science degree and has been certified as a Mental Health Peer Specialist (MHPS), Certified Peer Support Specialist (CPSS), Licensed Mental Health Counselor (LMHC), and Licensed Master Social Worker (LMSW).

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National

Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge.

Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) Chapter 3 provides 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.

(a) 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.

(b) 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.

(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. 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.

(3) Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14-12c, Misconduct (Serious Offense).

f. Army Regulation 601-210, Regular Army, and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI

1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

(1) RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

g. Manual for Courts-Martial (2008 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good orders and discipline in the Armed Forces. Article 123 (forgery) states in the subparagraph, the maximum punishment consists of dishonorable discharge, forfeiture of all pay and allowances, and confinement for five years.

h. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered, medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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 Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The available evidence provides the applicant was flagged for adverse action in February 2008 and fifteen sworn statements provide facts and circumstances surrounding the 15-6 investigation, which was initiated in April 2008. The IO found them to have violated Article 123, UCMJ (forgery), for having altered and/or forged official documents, and recommended a FG Article 15, their removal from the brigade position, and involuntary separation for serious misconduct.

(1) In May 2008, they received a permanently filed GOMOR reflecting the investigation for having altered their Weapons Qualification Card and Physical Fitness Training Card. In June 2008, the applicant was allowed to complete their second reenlistment for four years, as a SGT, with nearly 9 years of inactive duty (ARNG) and 3 years, 7 months, and 15 days of active duty. Separation proceedings were initiated under the provisions of AR 635-200, Chapter 14-12C, Misconduct (Serious Offense) with an Under Other than Honorable Conditions characterization of service; however, the separation authority referred the case to an Administrative Separation Board. The applicant elected to waive their right to appear before the board contingent upon having received an Honorable discharge. Moreover, they elected to consult with legal and declined to submit a statement on their behalf.

(2) The conditional waiver was disapproved and although the board of proceedings were not in the record, the applicant was discharged with a General (Under Honorable Conditions) characterization of service. In October 2008, a request to have their reenlistment revoked was initiated and approved pursuant to the flag barring them from reenlistment was still effective.

(3) Their medical examination for separation qualified them for service. The mental status evaluation diagnosed them with Adjustment Disorder, with Anxiety Type and Depressed Mood. At the time, they were being treated with behavioral health and was psychiatrically cleared for any administrative actions deemed necessary.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

d. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

9. 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):** N/A.

b. **The applicant presented the following additional contention(s):** Applicant and character witness(es) provided oral argument and statements in support of the contentions provided in written submissions and in support of previously submitted documentary evidence.

c. **Counsel / Witness(es) / Observer(s):** [REDACTED]

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? **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: Major Depressive DO (MDD-100%SC), PTSD due to MST. [Note-diagnoses of Adjustment DO with depressed mood and Adjustment DO with mixed anxiety and depressed mood are subsumed under diagnosis of MDD.]

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for MDD, PTSD and MST establishes nexus with active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has several conditions, MDD, PTSD and MST, which mitigate some of the misconduct. As these conditions are associated with problems with authority figures, there is a nexus between these conditions and the applicant's disrespectfulness toward the Investigating Officer and applicant's refusal to answer questions. MDD, PTSD and MST do not, however, mitigate the offenses of submitting false official records or making false official statements given that none of these conditions affects one's ability to distinguish right from wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's MDD, PTSD, and MST outweighed the wrongful submission of an Army Physical Fitness Test Scorecard and a Record firing scorecard basis for separation. The Board determined the applicant's length and quality of service, and post service accomplishments mitigated the remaining misconduct of submitting false official records or making false statements.

b. Response to Contention(s):

(1) The applicant contends, a wrongful discharge from service and the circumstances surrounding their discharge were unjust, and request reinstatement, along with the recouping of their military pay and active time in service.

The Board considered this contention during proceedings. The Board determined an upgrade was warranted based on the applicant's MDD, PTSD, and MST fully outweighing the applicant's wrongful submission of an Army Physical Fitness Test Scorecard and a Record firing scorecard. The applicant's length and quality of service, and post service accomplishments mitigated the remaining misconduct of submitting false official records or making false statements.

(2) The applicant contends having experienced sexual assault by the 1SG, which the applicant did not report fully due to fear and intimidation. The Board considered this contention during proceedings. The Board voted to change the narrative reason for discharge to Secretarial Authority (SA) to minimize harm to the applicant and reduce any prejudice the applicant may face due to the contention of retaliation by her First Sergeant.

c. The Board determined the discharge is inequitable based on the applicant's MDD, PTSD, and MST mitigating the applicant's wrongful submission of an Army Physical Fitness Test Scorecard and a Record firing scorecard basis for separation. The Board voted the applicant's length and quality of service and post service accomplishments mitigated the misconduct of submitting false official records and making false official statements. Therefore, the Board

voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnoses warranting consideration prior to reentry of military service. 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

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's MDD, PTSD, and MST mitigated the applicant's misconduct of wrongful submission of an Army Physical Fitness Test Scorecard and a Record firing scorecard. The Board determined the applicant's length and quality of service and post service accomplishments mitigated the remaining misconduct of submitting false official records and making false official statements. Additionally, the Board believed the applicant's contention that her First Sergeant threatened and stalked her and she did not report the inappropriate behavior due fear and retaliation. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Secretarial Authority under the same rationale, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

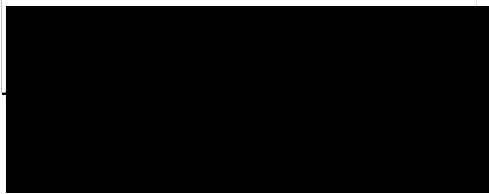
(3) The RE code will not change due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

11. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** Secretarial Authority / JFF
- d. Change RE Code to:** No Change
- e. Change Authority to:** AR 635-200, Chapter 15

Authenticating Official:

4/15/2025



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