

1. Applicant's Name: [REDACTED]

a. **Application Date:** 24 August 2023

b. **Date Received:** 2 October 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 to honorable.

(2) The applicant seeks relief stating they are trying to apply for disability for their back, knees, and ankles. They have the worst occurring lower back pain; sometimes their back gets stuck. At times their knees give out and their ankles ache and burn. When they stand to long or even for just an hour they have pain within their ankles. Even when they sit down to long they have to stand up because of their back pain. Their knees pop and so do their ankles. They have been dealing with body pain that just won't let up. They are struggling to get out of bed at times. They are only in their twenties.

(3) During the time of getting discharge they were in an abusive relationship, they were suicidal from the stress from the Army and from the abusive relationship. It started off getting support from their company, then there was a change in their chain of command. They no longer had the support they had, there was a lack of communications with the new leadership, the new leadership did not care for their Soldiers. They were mailed orders, which they were not aware of and no one spoke to them about it or anything. They were told that they were being discharged for being absent, which they were in the hospital on suicide watch. The only thing they kept telling them afterword was they were sorry. That does nothing.

(4) They have tried four different ways to get this fixed. They have been sent in different directions. This is their last resort when reaching out for help.

b. Board Type and Decision: In a records review conducted on 12 July 2024, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on compassion for the applicant's assertion of experiencing intimate partner violence. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General.

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 4 July 2019

c. **Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) is void of their case files for approved separation. On 28 December 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:** 13 January 2015 / 8 years (USAR)

b. **Age at Enlistment / Education / GT Score:** 17 / NIF / NIF

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 92A10, Automated Logistical Specialist / 4 years, 5 months, 22 days (USAR)

d. **Prior Service / Characterizations:** None

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

f. **Awards and Decorations:** NDSM, 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 5 October 2016, after completing their initial active duty training and assigned to their USAR unit.

(2) The Headquarters, 63rd Regional Support Command Orders 19-178-00005, dated 27 June 2019, reduced the applicant in rank/grade from specialist/E-4 to private/E-1 effective 27 June 2019, and discharged the applicant from the USAR with an effective date of 4 July 2019, with the type of discharge as Under Other Than Honorable Conditions.

(3) A DA Form 5016 (Chronological Statement of Retirement Points) dated 5 June 2024, reflects –

- from 14 January 2018 – 13 January 2019, the applicant has 8 Inactive Duty Points (equivalent to 4 days of unit drills)
- from 14 January 2019 – 4 July 2019, the applicant has 6 Inactive Duty Points (equivalent to 3 days of unit drills)

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

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

(1) **Applicant provided:** On 28 December 2023 the Army Review Boards Agency requested the applicant provide their medical documents to support their mental health issues, as of this date there has been no response.

(2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)

6. POST SERVICE ACCOMPLISHMENTS: None submitted with application.

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.

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 from the USAR. 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 under the provisions of Army Regulation 135-178. They completed 4 years, 5 months, and 22 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. However, the applicant's assertion of IPV and resulting behavioral health issues 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 IPV and subsequent behavioral health issues.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that while liberal consideration was applied, there are no diagnoses for mitigation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined

that the available evidence did not support a conclusion that the applicant's assertion of IPV outweighed the applicant's medically unmitigated unsatisfactory participation.

b. Response to Contention(s):

(1) The applicant contends they are trying to apply for disability for their back, knees, and ankles. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(2) The applicant contends during the time of getting discharged they were in an abusive relationship; they were suicidal from the stress from the Army and from the abusive relationship. The Board considered this contention and, out of compassion for the applicant's circumstances at the time of discharge, determined that an upgrade to General characterization of service is warranted.

(3) The applicant contends stating they were mailed orders, which they were not aware of and no one spoke to them about the reason of why they were absent ; they were in the hospital on suicide watch. The Board considered this contention in its decision to upgrade the discharge to General.

(4) The applicant contends they have tried four different ways to get this fixed. They have been sent in different directions. This is their last resort when reaching out for help. The Board considered this contention in its decision to upgrade the discharge to General.

c. The Board determined that the characterization of service was inequitable based on compassion for the applicant's assertion of experiencing intimate partner violence. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General. However, the applicant may request a personal appearance hearing to address further 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.

d. Rationale for Decision: The Board voted to change the applicant's characterization of service to General out of compassion for the applicant's circumstances at the time of discharge. Thus, the prior characterization is no longer appropriate.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20230013248

10. BOARD ACTION DIRECTED:

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

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