

1. Applicant's Name: [REDACTED]

- a. Application Date: 3 October 2023
- b. Date Received: 10 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 general (under honorable conditions). The applicant requests an upgrade to honorable and a change to their narrative reason for separation to a medical retirement.

(2) The applicant seeks relief stating they never had a violation or negative counseling within their unit nor was there three consecutive counseling to justify their separation. They were never given an opportunity for corrective action. The decision to separate them was severe and unfair judgement since they were in their unit for less than a month. In 2021, they had a head injury causing Traumatic Brain Injury (TBI) and subsequently Post-Traumatic Stress Disorder (PTSD), migraine, back injury, shoulder, hip, and neck injury. They have suffered mental sickness and hospitalized at the time of discharge. They were not sound at the time of their separation. They were under treatment and had a medical profile during their separation process and they were taken from the hospital to be read their separation proceedings.

(3) They were on a medical physical profile and unsound for trial both physically and mentally. They also had a heart monitor due to illness of anxiety and depression. There was misuse of authority through malicious engineered false allegations, due to retaliation, victimization and discrimination by their First Sergeant, which they then started separation process and nonjudicial punishment against them. Their accomplishments and outstanding performance should have been considered. It was absurd and illogical that a unit they were not even a member for a month, would have substantial grounds to separate them. Lack of proper counseling administered where the counseling was post dated and signed when they raised their concern.

(4) They are requesting for the Board to grant a medical retirement following circumstance of illness that was persisting at the time of separation. There was no physical or mental evaluation done at that time. There is no indication they were not suffering from TBI.

b. Board Type and Decision: In a records review conducted on 18 April 2025, and by a 5-0 vote, the Board granted the request upon finding the separation was inequitable. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Pattern of Misconduct / Army Regulation 635-200 / JKA / RE-1 / General (Under Honorable Conditions)

b. Date of Discharge: 17 July 2023

c. Separation Facts: The applicant's Army Military Human Resource Record (AMHRR) is void of their case separation file for approved separation. On 30 January 2024 the Army Review Boards Agency requested the applicant provide their discharge packet (case separation files). the applicant provided several separation documents; however, only their Notification of Separation and Election of Rights were dated and signed. The information in 3c(1) through (6) were derived from those documents.

(1) Date of Notification of Intent to Separate: 19 May 2023

(2) Basis for Separation:

- on or about 14 September 2021, disrespectful towards a noncommissioned officer (NCO), Sergeant (SGT) C____ N____
- on or about 12 November 2021, disobeyed a lawful order from an NCO, Sergeant First Class S____ D____
- on or about 10 February 2023, disrespectful towards an NCO, SGT K____ H____
- on or about 15 February 2023, communicated a treat to a senior NCO, First Sergeant (1SG) M____ L____
- on divers occasions, failed to go to their place of duty
- on divers occasions, disrespectful toward a senior NCO, 1SG L____

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

(4) Legal Consultation Date: 31 May 2023

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: NIF

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 24 August 2018 / 4 years

b. Age at Enlistment / Education / GT Score: 31 / Bachelor's Degree / 124

c. Highest Grade Achieved / MOS / Total Service: E-4 / 92Y1O, Unit Supply Specialist / 2 years, 10 months, 24 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDSM, GWTSM, HSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A memorandum, Headquarters, 1st Brigade Combat Team, 101st Airborne Division (Air Assault), subject: Notification of Administrative Separation under Army Regulation 635-200, Paragraph 14-12b, dated 19 May 2023, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200,

Chapter 14-12b, a pattern of misconduct, with a recommended characterization of service general (under honorable conditions) for adverse action described in previous paragraph 3c(2). On 22 May 2023, the applicant acknowledged the basis for the separation and of the rights available to them.

(2) On 31 May 2023, the applicant completed their election of rights signing they had been advised by counsel of the basis for the contemplated action to separate them for a pattern of misconduct under Army Regulation 635-200, paragraph 14-12b, and its effects and of the rights available to them; and of the effect of any action taken by them in waiving their rights. They elected to submit statements in their behalf, stating they never had direct or indirect offenses or negative counseling within their unit. They were and are still recovering from physical and psychological distress.

(3) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 17 July 2023, with 2 years, 10 months, and 24 days of net active service this period. The DD Form 214 shows in –

- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 27 (Reentry Code) – 1
- item 28 (Narrative Reason for Separation) – Pattern of Misconduct

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: two Behavior Health Patient Discharge Summaries reflecting evaluation for Adjustment Disorder with depression and anxiety and Cluster B Personality Disorder (predominantly narcissistic and antisocial).

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE:

- two DD Forms 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- four Letter of Recommendations for Officer Candidate School Selection Board
- three DA Forms 4856 (Developmental Counseling Form)
- Office of the Inspector General Letter, reflecting the forwarding of the applicant's complaint to the 10th Mountain Division
- Applicant's Memorandum, subject: Redress to Involuntary Separation by [Company Commander]
- Applicant's Memorandum, subject: Article 15 Appeal Denial by Colonel K____ S____
- Applicant's Memorandum, subject: Responding to Purported Allegations as Per Memorandum Notification of Separation Administration
- four 3rd Party Statements
- Congressional Privacy Release Form
- Medical Record excerpts
- Applicant's copy of case files for approved separation

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the 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, Title 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 15-6 (Procedures for Investigating Officers and Boards of Officers) establishes procedures for conducting preliminary inquiries, administrative investigations, and boards of officers when such procedures are not established by other regulations or directives. Paragraph 5-2 states IOs may use whatever method they deem most efficient and effective for acquiring information. Although witnesses may be called to present formal testimony, information may also be obtained by personal interview, correspondence, telephone inquiry, or other informal means.

d. 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; and DoD Directive 1332.41 and Instruction 1332.28.

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 19 December 2016, 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) 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.

(2) 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.

(3) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 1 (General Provisions) sets policies, standards, and procedures to ensure readiness and competency of the force while providing for the orderly administrative separation of Soldiers, it provides in pertinent part:

(a) When a separation is ordered, the approved proceedings will be sent to the commander who has the Soldier's records for separation processing. The original copy of the proceedings will be filed in the permanent part of the Soldiers official personnel record.

(b) Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to Soldiers. It is essential that Soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. Except as otherwise indicated, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and ensure it occurs prior to initiating separation proceedings for reason to include Minor Disciplinary Infractions (14-12a) or a Pattern of Misconduct (14-12b).

(5) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to

succeed. Paragraph 14-12b (Pattern of Misconduct), stated, a pattern of misconduct consisting of one of the following – discreditable involvement with civil or military authorities, or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

(6) Paragraph 14-3 (Characterization of Service or Description of Separation) prescribed 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.

(7) Chapter 15 (Secretarial Plenary Authority), currently in effect, 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.

f. 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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, (Pattern of Misconduct).

g. 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 DoD Instructions 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 waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

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

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

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

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 documents of the applicant's case

files for approved separation. The applicant's DD Form 214 indicates their discharge under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12b (Pattern of Misconduct). A DD Form 214 provides the applicant was discharged with a character of service of general (under honorable conditions) for a pattern of misconduct. They completed 2 years, 10 months, and 24 days of net active service; however, they did not complete their first full term of service of their 3-year, 23 week contractual service obligation.

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. The applicant's AMHRR reflects no documentation of a physical or behavioral health diagnoses during the applicant's military service. The applicant provided Behavior Health Patient Discharge Summaries reflecting evaluation for Adjustment Disorder with depression and anxiety and Cluster B Personality Disorder (predominantly narcissistic and antisocial) during their military service.

e. Published DoD 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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses: Adjustment Disorder, Personality Disorder (later removed as an error), Unspecified Mood Disorder, Psychosis with subsumed Unspecified Bipolar and Related Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence Bipolar Disorder with psychosis.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant's emerging condition and related symptoms for which they are now diagnosed, and service connected are mitigating. Specifically, the symptoms and condition/s are associated with interpersonal difficulties, disrespectful presentation/actions/words, overriding orders, and not arriving or arriving late to scheduled activities both while hypo/manic and depressed and whether psychosis is present. Regarding the threat toward a senior NCO, without the specifics it is unclear if this is related. However, it is quite possible the statement was secondary to symptoms.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition or experience outweighed the basis of separation.

b. Prior Decisions Cited: none

c. Response to Contention(s):

(1) The applicant contends they never had a violation or negative counseling within their unit nor was there three consecutive counseling to justify their separation. They were never given an opportunity for corrective action. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence bipolar disorder with psychosis. Outweighing the applicant's pattern of misconduct.

(2) The applicant contends the decision to separate them was severe and unfair judgement since they were in their unit for less than a month. In 2021, they had a head injury causing TBI and subsequently PTSD, migraine, back injury, shoulder, hip, and neck injury. They have suffered mental sickness and hospitalized at the time of discharge. They were not sound at the time of their separation. They were under treatment and had a medical profile during their separation process and they were taken from the hospital to be read their separation proceedings. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence bipolar disorder with psychosis. Outweighing the applicant's pattern of misconduct.

(3) The applicant contends they were on a medical physical profile and unsound for trial both physically and mentally. They also had a heart monitor due to illness of anxiety and depression. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence bipolar disorder with psychosis. Outweighing the applicant's pattern of misconduct.

(4) The applicant contends there was misuse of authority through malicious engineered false allegations, due to retaliation, victimization and discrimination by their First Sergeant, which they then started separation process and nonjudicial punishment against them. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence bipolar disorder with psychosis. Outweighing the applicant's pattern of misconduct.

(5) Their accomplishments and outstanding performance should have been considered. It was absurd and illogical that a unit they were not even a member for a month, would have substantial grounds to separate them. Lack of proper counseling administered where the counseling was postdated and signed when they raised their concern. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence bipolar disorder with psychosis. Outweighing the applicant's pattern of misconduct.

(6) The applicant contends they are requesting for the Board to grant a medical retirement following circumstance of illness that was persisting at the time of separation. There

was no physical or mental evaluation done at that time. There is no indication they were not suffering from TBI. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's: Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence bipolar disorder with psychosis. Outweighing the applicant's pattern of misconduct

d. The Board determined: The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Combat) and concurred with the conclusion of the medical advising official that the applicant's symptoms and conditions does mitigate the applicant's basis for separation. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service because, applying liberal consideration of all the evidence before the Board, the applicant's Adjustment Disorder, Personality Disorder (later removed as in error), Unspecified Mood Disorder with evidence bipolar disorder with psychosis did mitigate the applicant's pattern of misconduct. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable

(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.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** No Change

Authenticating Official:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE
AR20240000724

7/22/2025



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