

**1. Applicant's Name:**

- a. **Application Date:** 8 July 2021
- b. **Date Received:** 10 May 2024
- c. **Counsel:** Yes

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is Under Other than Honorable Conditions. The applicant requests an upgrade to Honorable and a change in their narrative reason for separation to "Secretarial Authority."

b. **Counsel states.** The applicant seeks relief contending, they enlisted in the Army on 30 January 2012 and was stationed at Fort Gillem, GA and was deployed to Afghanistan in support of Operating Enduring Freedom from 8 November 2012 – 19 August 2013. While in Afghanistan, the applicant received a meritorious promotion to SPC (E-4). Upon redeployment, they were sent to Fort Hood, TX and assigned to the 81<sup>st</sup> Civil Affairs Battalion on 5 December 2013.

(1) During their service, the applicant received multiple awards and decorations, such as the Afghanistan Campaign Medal with Campaign Star, the National Defense Service Medal, the Global War on Terrorism Service Medal, the Army Service Ribbon, the Overseas Service Medal, and the NATO Medal. Additionally, they received education in Postal Operations and as a Human Resources Specialist.

(2) After deployment, the applicant began seeking treatment for health issues in January 2014. They were diagnosed with Adjustment Disorder and reported higher levels of anger, nightmares, and insomnia. They were later diagnosed with Anxiety and Depression, treated with Effexor and Ambien. In August 2014, the applicant reported consuming high amounts of alcohol weekly and agreed to attend the Army Substance Abuse Program (ASAP), where they were diagnosed with Alcohol Dependency. A psychiatrist assessment revealed the applicant had trauma and depressive symptoms. In total, they were diagnosed with Adjustment Disorder, Alcohol Dependence, and rule out Posttraumatic Stress Disorder (PTSD). They continued abusing alcohol for two years and drug abuse also made an appearance.

(3) The applicant was discharged on 22 August 2016 under the provisions of AR 635-200, Chapter 10, by reason of In Lieu of Trial by Court-Martial, and received a characterization of Under Other Than Honorable Conditions. They received a "KFS" separation code and "RE-4" reentry code, additionally, reduced to the PVT (E-1), having served for 4 years, 6 months, and 23 days.

(4) The Secretary of the Army may correct any military record when it is "necessary to correct an error or remove an injustice." 10 U.S.C. § 1552. An applicant must prove that an error or injustice has been made during discharge. Here, the applicant is seeking to upgrade their discharge status for reasons of propriety and equity. This request falls under the jurisdiction of this Honorable Board. The applicant submitted their request well within the 15 year statute of limitations.

(5) A discharge shall be deemed proper unless it is determined that an error of fact, law, procedure, or discretion exists associated with the discharge. It is respectfully submitted that an error of discretion was made in discharging the applicant Under Other than Honorable Conditions. They suffer from a multitude of health issues because of their time in Afghanistan (Adjustment Disorder, Depression, Anxiety, Alcohol Dependence, and rule out PTSD). Their variety of mental disorders make adjusting to civilian life incredibly difficult. They were prescribed multiple medications to treat their issues and attended ASAP, as received psychiatric help while in active duty. The applicant's service in Afghanistan caused a multitude of mental health issues that need treating. Without their Veterans Affairs (VA) benefits, the applicant cannot afford adequate treatment and is unable to continue the treatment they began in the Army. Without treatment, the applicant will continue suffering with the illnesses caused by their service.

(6) Countless members of the military suffer from PTSD or other mental illnesses because of the trauma experienced overseas; the applicant is no exception. Not receiving treatment for PTSD can often result in substance abuse. Their substance abuse began only a month after returning from overseas and continued until their separation. Their substance abuse led to dramatic changes in their life. The applicant reported insomnia, higher levels of anger, and increased nightmares, all of which can contribute to significant behavioral changes. Moreover, they were disapproved for their Army Good Conduct Medal in December 2014, after failing their Army Physical Fitness Test (APFT). Their declining mental and physical health not only affected them personally, but it also affected their success in the Army.

(7) It is respectfully submitted that a discretionary error was made when the applicant was discharged "Under Other than Honorable Conditions," as the applicant's dedication to their military service led them to serve in Afghanistan, causing PTSD-related symptoms and substance abuse, resulting in their discharge. The applicant respectfully requests this Honorable Board take the applicant's mental health, directly resulting from their Honorable service in Afghanistan, into consideration and grant them an upgrade to the applicant's discharge.

(8) A discharge shall be deemed to be equitable unless it is determined the relief is warranted based upon consideration of the applicant's service record and other evidence presented to the Discharge Review Board. DODI 1332.8. Factors that apply here are service history, awards and decorations, combat service, records of promotion and demotions, and level of responsibility. If a material injustice has been committed against the service member, equity is considered. They took their military career seriously based on their accomplishments and the nature of their service.

(9) In light of the contentions presented, the applicant respectfully requests an upgrade to Honorable and their narrative reason changed to reflect "Secretarial Authority." They have served their country dutifully and faithfully, all while suffering from multiple mental conditions. The applicant needs treatment for these conditions that they cannot afford without Veteran's benefits. It is a great injustice to punish the applicant for a lapse in judgment resulting from the numerous mental conditions received while serving in the U.S. Army. This Honorable Board should undo the discretionary error made against the applicant and upgrade their discharge for reasons of propriety and equity.

**c. Board Type and Decision:** In a telephonic appearance conducted on 12 August 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 10 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

### 3. DISCHARGE DETAILS:

**a. Reason / Authority / Codes / Characterization:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / Under Other than Honorable Conditions

**b. Date of Discharge:** 22 August 2016

**c. Separation Facts:**

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

**(2) Basis for Separation:** Pursuant to the applicant's request for voluntary discharge provision of AR 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

**(3) Recommended Characterization:** NIF

**(4) Legal Consultation Date:** NIF

**(5) Administrative Separation Board:** NA

**(6) Separation Decision Date / Characterization:** 29 July 2016 / Under Other than Honorable Conditions

### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 30 January 2012 / 4 years, 24 weeks

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

**c. Highest Grade Achieved / MOS / Total Service:** E-4 (SPC) / 42A10 F5 Human Resources Specialist / 4 years, 6 months, 23 days

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

**e. Overseas Service / Combat Service:** SWA / Afghanistan (2 August 2011 – 29 January 2012)

**f. Awards and Decorations:** ACM-CS, NDSM, GWOTSM, ASR, OSR, NATOMDL

**g. Performance Ratings:** NA

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

**(1)** On 30 January 2012, the applicant enlisted in the Regular Army for 4 years and 24 weeks as a PFC (E-3). The Enlisted Record Brief provides the following:

- They served in Afghanistan, in support of Operation Enduring Freedom (OEF) for nine months, from 23 November 2012 – 19 August 2013.
- On 1 September 2013, they promoted to SPC (E-4).
- On 5 June 2014, the applicant was flagged, Suspend Favorable Personnel Actions (FLAG), for law enforcement investigation (MA).

(2) Notwithstanding the missing separation files to include the applicant's voluntary discharge request, on 29 July 2016, the separation approval authority approved the discharge, with an Under Other than Honorable Conditions, resulting in their reduction to the lowest enlisted paygrade.

(3) On 16 August 2016, their separation orders were issued. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged accordingly on 22 August 2016, with 5 years and 21 days. The applicant provided their electronic signature and has not completed their first full term of service.

i. **Lost Time / Mode of Return:** None

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** Application for the Review of Discharge; Legal Brief; Service Record; Previous Army Discharge Review Board Case (AR20170010963); Seven Character Letters provides the following:

a. Although undated, a Licensed Counselor and Social Worker (LCSW), provides the applicant is an individual of high moral standing. He possesses a fantastic positive outlook on life and is of outstanding character. They are a peer of the applicant and has known and worked closely with the applicant for over a decade. They have seen many young professionals come and go; however, the applicant is missed when they are gone. The applicant's presence sets the tone, and they are always ready to help or offer positive reinforcement. The applicant is one individual they have worked with, who uniquely stands out.

b. A personal friend provides they grew up with the applicant who was a popular athlete, homecoming, and prom king, however, maintained a positive attitude through it all and uplifted others on the way. They have remained close friends over the years.

c. A former colleague provides they have known the applicant for many years and have seen them as a parent of four and on track to owning their own business. The applicant received an athletic scholarship and went to college at age 19. They can accomplish anything they put their mind to and is a natural leader who is admired by all of their peers.

d. On 6 July 2020, the Director of Transportation for DOT Transportation Inc. located in California, contends the applicant has been a Class A Customer Delivery Specialist since 12 October 2018, and has performed satisfactorily and is in good

standing with their employer.

e. On 13 July 2021, a peer for over a decade, strongly recommends the applicant as an individual of high moral standing who possesses a positive outlook on life and is of outstanding character. The applicant uniquely stands out and was missed when they were gone, as their presence sets the tone and is always ready to help or offer positive reinforcement. Besides their impressive technical skills, the applicant was a joy to work with because of their amazingly positive attitude and tenacity. The level of concentration and attention to detail were valued by their peers, who often relied on the applicant to get the job done. They are confident that the applicant can achieve anything they set their mind to do, as the applicant does not believe in failure, knowing they can always learn and take something positive from any situation.

f. On 24 July 2021, the applicant's former manager from Waffle House, enthusiastically vouches for the applicant's character, providing, the applicant worked as a server and manager under their supervision for four years, beginning in Spring 2006. They were consistently impressed with the applicant's customer service and people management skills, as well as their dedication and good humor. The applicant was truly a gifted server, fast on their feet, and able to communicate with guests fluently.

g. On 1 August 2021, a friend of 16 years, provides the applicant has become the godparent of their child, is beyond helpful, and has taken more of a parental role in demonstrating to them how to navigate in this world as a young person of color, with certain obstacles ahead. The applicant has demonstrated great maturity and perseverance. The applicant has always been mature and wise beyond their years and was only age 14 when they began working with their family lawn care business; surprisingly they were very responsible; this demonstrated an impressive professionalism, even at a young age. The applicant is an intelligent, capable, dedicated, and personable young person. They are always quick on their feet, with sensible reactions in all the circumstances the friend seen them in, handling them with thoughtfulness and maturity.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with this application.

**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)** 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)** 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.

**(4)** Chapter 10, Discharge in Lieu of Trial by Court Martial is applicable to members who committed an offense or offenses for which the authorized punishment included a bad conduct or dishonorable discharge could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or general was authorized, an under other than honorable conditions discharge was considered appropriate, unless the record was so meritorious it would warrant an honorable. After receiving legal counseling, the soldier may elect to submit a request for discharge in lieu of trial by court-martial. The soldier will sign a written request, certifying that they have been counseled, understands their rights, and may receive a discharge under other than honorable conditions. The following will accompany the request for discharge:

- A copy of the court-martial Charge Sheet (DD Form 458)
- Report of medical examination and mental status evaluation, if conducted
- A complete copy of all reports of investigation
- Any statement, documents, or other matter considered by the commanding officer in making their recommendation, including any information presented for consideration by the soldier or consulting counsel
- A statement of any reasonable ground for belief that the soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

**(5)** 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 "KFS" as the appropriate code to assign enlisted Soldiers who are

discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

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.

**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 and a change in their narrative reason for separation to "Secretarial Authority." A review of the record provides administrative irregularity in the proper retention of records, specifically the AMHRR is void of the entire separation proceedings and whether the applicant requested a mental health and/or mental examination; based on this we are unable to provide specific facts and circumstances surrounding them voluntarily requesting to be discharged in lieu of trial by court-martial.

b. The available evidence provides the applicant enlisted in the Regular Army as a PFC, deployed to Afghanistan for nine months in support of OEF, promoted to SPC, and served for 2 years, 4 months, and 5 days, prior to having been flagged for law enforcement investigation. Notwithstanding the lack of evidence, the separation approval authority approved the applicant's voluntary discharge request, separating them under the provisions of AR 635-200, Chapter 10, In Lieu of Trial by Court-Martial, with an Under Other than Honorable Conditions characterization of service, and reduction to the lowest enlisted grade.

(1) The record is void of a medical and/or mental status examination, although, not required for a voluntary discharge request, this can be requested by the Soldier. Through counsel, the applicant provided

(2) The applicant completed their 4 year-29 week contractual obligation.



c. Army Regulation 635-200 states Chapter 10 is a voluntary discharge request in lieu of trial by court-martial. A discharge under other than honorable conditions normally is appropriate for a soldier who is discharge in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. For Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

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):**

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

c. **Counsel / Witness(es) / Observer(s):** Mr. M.R. (counsel)

**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: The applicant was diagnosed in-service with an Adjustment Disorder, Depression, and Anxiety. He is service connected for MDD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant was diagnosed in-service with an Adjustment Disorder, Depression, and Anxiety.

(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 the applicant's assertions are acknowledged, if 1st degree murder is accepted as the basis for separation, there is no medical mitigation at this time. An Adjustment Disorder is a temporary difficulty coping with stressors that does not impair an individual's ability to make conscious choices, know right from wrong, and understand consequences. Regarding Depression and Anxiety, these were temporary diagnoses which resolved before the basis for separation occurred. Additionally, they would not have impaired an individual to the extent the individual was unaware of right and wrong, able to make choices, and understand the consequences. Lastly, the post-service connected MDD

was a progression of symptoms in-service; it did not exist in-service as a potential influencing factor.

**(4)** Does the condition or experience outweigh the discharge? **No.** The board applied liberal consideration to the evidence, including the Board's Medical Advisor opine, and determined that the applicant's Adjustment Disorder, Depression, Anxiety, and post service connection for MDD did not outweigh the applicant's misconduct – pending court case/trial for 1st degree murder" and other multiple acts of misconduct. Also, the applicant requested for a voluntary discharge provision of AR 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

**b. Response to Contention(s):**

**(a)** Through counsel, the applicant contends, they have served their country dutifully and faithfully, all while suffering from multiple mental conditions. The applicant needs treatment for these conditions that they cannot afford without Veteran's benefits. It is a great injustice to punish the applicant for a lapse in judgment, resulting from the numerous mental conditions received while serving in the U.S. Army. This Honorable Board should undo the discretionary error made against the applicant and upgrade their discharge for reasons of propriety and equity. The board considered this contention and found insufficient evidence of in-service mitigating factors and the applicant does not have a BH condition that mitigates the applicant's misconduct. Therefore, based on a preponderance of evidence, the board determined the reason for the applicant's separation and the character of service the applicant received upon separation were proper and equitable. Additionally, eligibility for veteran's benefits does 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.

**(b)** Through counsel, their current director, former colleagues and friends contends, the applicant is of high moral standing and their presence sets the tone...always ready to help or offer positive reinforcement; they were a boy scout and always a positive person to be around, never any conflicts with people; they received an athletic scholarship and went to college; the applicant has always been a natural leader, admired by all of their peers in any area; they have satisfactory performance and their employment is in good standing. The board considered these statements during deliberations; however, the board determine that the applicant's service was not sufficiently meritorious to warrant an upgrade due to the severity of the offenses (pending court case/trial for 1st degree murder and other multiple acts of misconduct found in the applicant file).

**c.** The board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable

**d. Rationale for Decision:**

**(1)** The board voted not to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence before the board, the applicant's Adjustment Disorder, Depression, Anxiety, and post service connection for MDD did not excuse or mitigate the applicant's basis for separation (pending court

case/trial for 1st degree murder) at the time of separation. Additionally, the applicant's file revealed multiple acts of misconduct to include FTRs, driving on a suspended license, threatening to harm command, CID investigation for child porn and solicitation, and positive UA. The board found the applicant's multiple acts of serious misconduct did not warrant a discharge upgrade. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

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

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

**11. BOARD ACTION DIRECTED:**

**c. Issue a New DD-214 / Separation Order: No**

**d. Change Characterization to: No Change**

**e. Change Reason / SPD code to: No Change**

**f. Change RE Code to: No Change**

**g. Change Authority to: No Change**

**Authenticating Official:**

9/16/2024

**X**

Presiding Officer, COL, U.S. ARMY

Army Discharge Review Board

**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  
UOTH – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs