

1. Applicant's Name: [REDACTED]**a. Application Date:** 21 May 2024**b. Date Received:** 21 May 2024**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 Under Other than Honorable Conditions. The applicant requests an upgrade to Honorable and a narrative reason change.

b. The applicant seeks relief contending, they had specific mitigating factors that played a major role leading up to their having been administratively discharged from the Army Reserves. They applied to the board on 15 January 2023 and approximately a year later, received a denial, and it was recommended that they appear personally to the board to fill in any gaps. They are reapplying due to the fact that their discharge was not equitable, and it was wrong and have attached new evidence that they, along with their command team were in the process of voluntarily placing them in the Inactive Ready Reserves (IRR). The applicant's unit at the time was aware of their employment hardship/conflict as an employee of the state Department of Corrections. At the time that they had applied to the review board, they mistakenly did not provide these records; however, several records of email communication are enclosed to prove their having initiated and completed the IRR process for the employment hardship.

(1) They never received a denial or an approval and while they waited and waited, the very last time they had inquired about their IRR status was the very time the applicant was advised that they had been kicked out of the military. They were given permission by their command team to attend the CDCR academy in 2017 and when they realized there was an employment conflict, they alerted their command team promptly and decided that they wanted to voluntarily transfer into the IRR due to their circumstances. They gave them their command team a memo from the Prison as corroborating evidence and based on regulation regarding the transfer into IRR, it was their belief that their packet would be submitted and should have been approved. Instead, their command team at the time, dropped the ball which resulted in their having been kicked out of the Army inequitably.

(2) Based on the facts, the applicant did everything in their power to make sure everything on their end was squared away and their IRR packet was completed and submitted, therefore, the applicant should have received an approval. It was inequitable and wrong to have kicked them out of the military because prior to that they had already volunteered to transfer into the IRR and because of that, having discharged them with an Other than Honorable without the submission of the truth of what actually occurred was wrong and unjust. The emails have been attached to depict a clearer picture of what occurred years ago, which is why their discharge characterization should be upgraded.

c. Board Type and Decision: In a telephonic personal appearance conducted on 17 March 2025, and by a 3-2 vote, the board determined the discharge is inequitable based on the applicant's length of service and the characterization is too harsh. Accordingly, the board voted to grant relief in the form of an upgrade of the characterization of service to General (Under Honorable Conditions).

Please see Section 10 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: NIF / AR 135-178 / NIF / NIF / Under Other than Honorable Conditions

b. Date of Discharge: 21 January 2020

c. Separation Facts: The applicant's Army Military Human Resource Record (AMHRR) is void of some of the case separation file. However, the applicant provided the separation authority memorandum, as well as their discharge orders, which have been extracted and placed below.

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

(2) Basis for Separation: Unsatisfactory Participation

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

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NIF

(6) Separation Decision Date / Characterization: 6 January 2020 / Under Other than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 10 July 2014 / 6 years (United States Army Reserve)

b. Age at Enlistment / Education / GT Score: 19 / High School Diploma / 102

c. Highest Grade Achieved / MOS / Total Service: E-4 (SPC) / 88M10 Motor Transport Operator / 5 years, 6 months, 5 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: National Defense Service Medal, Army Service Ribbon

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: On 10 July 2014, they enlisted in the United States Army Reserve (USAR) for 6 years as a private, PVT (E-1). A DD Form 214 (Certificate of Release or Discharge from Active Duty) provides they attended basic combat training (BCT) and AIT (Advanced Individual Training) between 2 September 2014 – 3 February 2015, noting the following:

- **Authority:** AR 635-200, Chapter 4
- **Narrative Reason:** Completion of Required Active Service
- **SPD Code:** MBK
- **Reentry Code:** NA
- **Service Characterization:** Honorable

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AR20240008431

- **Total NET Active Service this Period:** 5 months, 2 days
- **Remarks:** Member has completed first full term of service.
- **Lost Time:** None
- **Signature:** Electronic signature provided.

(2) Notwithstanding the missing documents, on 6 January 2020, the separation authority, having reviewed the administrative action and considering the recommendations of the chain of command, it was their conclusion that the applicant received nine or more unexcused absences from scheduled unit training assemblies within a 12 month period. Therefore, under the provisions of AR 135-178, Chapter 12, Unsatisfactory Participation, they were separated with an Under Other than Honorable Conditions and as a result, was reduced from specialist to the lowest enlisted grade.

(3) On 14 January 2020, their separation orders were issued effective 21 January 2020, they were separated from USAR with an Under Other than Honorable Conditions characterization of service.

i. Lost Time / Mode of Return: NIF

j. Behavioral Health Condition(s): None

5. APPLICANT-PROVIDED EVIDENCE: ACTS Online Application; Emails; Exit Counseling; Developmental Counseling for IRR

a. A Developmental Counseling Form, dated 2 April 2018, provides the sergeant first class counseled the applicant on their decision to separate from the Army Reserve Troop Program Unit (TPU) and identified their contractual obligation end date was 9 July 2020. The applicant decided to transfer to the IRR because: "Due to Soldier civilian career, Soldier will not be able to continue to participate in unit training and assembly. Soldier therefore request[ed] to transfer to IRR." It was identified that the applicant should continue to participate in drill until the order was published.

b. An email additionally identified that the applicant moved six hours away for work and could not find a unit close to them for RST (Rescheduled Training) or transfer.

c. They provided the pertinent subparagraph of AR 140-10 (Assignments, Attachments, Details, and Transfers), and highlighted the following: **Chapter 4-9**, voluntary reassignment to the IRR was appropriate when there was a confirmed unresolvable employment conflict and a change of address beyond a reasonable commuting distance. Additionally, for having completed their contractual obligation agreement to serve in a TPU which the Soldier incurred on their initial enlistment in the USAR under a 3x3, 4x2, 5x1, 3x5, 4x4, 5x3, or 6x2 option; the Soldier is a surviving child; dependency or hardship, and pregnancy. The applicant further identified **Chapter 4-13**, which states hardship exists when in circumstances not involving the death or disability of a member of a Soldier's family, a transfer to the IRR would materially affect the care or support of the Soldier's family by materially alleviating undue hardship.

6. POST SERVICE ACCOMPLISHMENTS: None provided 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) 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 135-91 (Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures) defines ARNG of the United States and USAR service obligations. It prescribed policies and procedures governing the various types of service obligations and participation requirements. Chapter 4 (Absences) governed absences from Ready Reserve training. Unsatisfactory participation stated a Soldier is an unsatisfactory participant when nine or more unexcused absences from scheduled inactive duty training occur during a 1-year period. Paragraph 4-15 (Documentation of Unexcused Absences) stated a prescribed letter of instructions – unexcused absence will be delivered to the Soldier, delivery will be either in person or by U.S. mail. When certified mail is used, a copy of the notice and either a post office receipt confirming delivery or the returned unopened envelope showing the notice was not delivered. Mail sent to the mailing address on file as provided by the Soldier, which is refused, unclaimed, or otherwise not delivered may not be used as defense against unexcused absences when notices were correctly addressed to the address on file provided by the Soldier.

e. Army Regulation 135-178 (Army National Guard and Reserve Enlisted Administrative Separations) sets forth the policies, standards, and procedures, to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard and USAR enlisted Soldiers for a variety of reasons. The separation policies throughout the different Chapters in this regulation promote the readiness of the Army by providing an orderly means to judge the suitability of persons to serve on the basis of their conduct and their ability to meet required standards of duty performance and discipline. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, and convictions by civil authorities.

(1) The possible characterizations include an honorable, general (under honorable conditions), under other than honorable conditions, or uncharacterized if the Soldier is in entry-level status. However, the permissible range of characterization varies based on the reason for separation.

(2) The characterization is based upon the quality of the Soldier's service, including the reason for separation and determination in accordance with standards of acceptable personal conduct and performance of duty as found in the UCMJ, Army regulations, and the time-honored customs and traditions of the Army. The reasons for separation, including the specific circumstances that form the basis for the discharge are considered on the issue of characterization.

(3) Chapter 12 (Unsatisfactory Participation in the Ready Reserve) stated a Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because the Soldier is an unsatisfactory participant and attempts to have the Soldier respond or comply with orders or correspondence. Characterization of service normally will be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted. 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 inappropriate.

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): 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 narrative reason change. 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 deemed an Unsatisfactory Participant for having accrued nine or more unexcused absences within a 12 month period. They completed 5 years, 6 months, and 5 days of their 6-year contractual obligation.

c. Chapter 12 (Unsatisfactory Participation in the Ready Reserve) stated a Soldier is subject to discharge for unsatisfactory participation when it is determined that the Soldier is unqualified for further military service because the Soldier is an unsatisfactory participant and attempts to have the Soldier respond or comply with orders or correspondence. Characterization of service normally will be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted. 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 inappropriate.

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):

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? **No.** 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 does not have a BH condition the mitigates her misconduct, nor does it appear the applicant is asserting her misconduct was associated with a BH condition. The applicant asserts instead that she submitted and completed all required paperwork to be processed into the IRR for employment hardship, never received a denial, and after she inquired about the request, she was informed she had been administratively separated. Her casefile appears to contain email communication supporting her assertion.

(2) Did the condition exist, or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant seeks relief contending, before their employment conflict, they were a dedicated Soldier with no prior disciplinary actions. Their inability to attend a drill was a hardship, not misconduct. An Under Other than Honorable Conditions characterization of service is meant for Soldiers who willfully disregard their obligations, not those who experience hardships, employment conflicts or are misled by their command and failed by the system. The board considered this contention and determined that some form of relief was warranted. While they determined that the applicant's service did not meet the high standards required for an honorable discharge, they also found that Other Than Honorable Conditions (UOTH) initially received was too harsh given the applicant's length of service. After deliberations, the board voted to upgrade the applicant's discharge characterization of service to General (Under Honorable Conditions).

(2) The applicant contends, a formal objection to any assertion that they were properly notified of their separation. The record demonstrates that their unit had multiple reliable methods of contacting them-specifically their personal email, which was routinely used for official communication-yet failed to utilize them. Additionally, the applicant's discharge paperwork was sent to an outdated address despite their correct address having been on file. These failures indicated that no genuine effort was made to ensure receipt of the formal notification, which deprived them of their opportunity to respond or exercise their due process rights. Not a single individual utilized well-established methods to notify them of their proceedings. This failure to properly inform them directly contradicted AR 135-78, which requires formal notice and the opportunity to present their case before an administrative separation board unless the applicant voluntarily waives their right-which they did not. The lack of notification denied the due process and prevented them from defending themselves against an unjust charge.

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 length of service.

(3) The applicant is contending, the email they received from J. M. in August 2020, which was explicitly addressed to IRR soldiers, serves as critical evidence that they were still

receiving IRR-related communications months after their discharge. While the applicant did not have access to emails from before their discharge, the fact that they were included in the IRR distribution list strongly suggest that they had been treated as an IRR Soldier at some point. This raises serious concerns about the handling of their discharge, as it indicates the possibility of administrative oversight of misclassification. If the applicant was indeed being contacted as an IRR Soldier, then it is reasonable to conclude that they had a justified belief that they had been placed in the IRR, rather than separated from service. This would further explain why they did not actively challenge their status at the time, as they had no reason to believe they had been discharged. In addition, any reasonable Soldier, and especially one not in a supervisory position would be led to believe that their IRR transfer request was approved.

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 length of service.

(4) The applicant is seeking relief contending, AR 135-178 states that Soldiers facing an unresolvable employment conflict or relocating beyond a reasonable commuting distance should be eligible for IRR transfer or reassignment. Their initial relocation placed them 14 hours away from their unit, and even after moving close, their employment hardship remained severe. The unit delayed processing their IRR request by four months, preventing them from taking timely action. Had they been officially informed that their IRR request was denied, the applicant would have immediately attempted to rectify the situation. The board considered this contention during proceedings.

(5) The applicant contends, their job as a correctional officer/peace officer involved irregular mandatory hours, high physical and mental stress, and limited flexibility, making drill attendance nearly impossible. In addition, at the time, they were in a position where they feared losing their civilian job if they took time off to attend drill, which placed them in an unresolvable employment conflict, which should have qualified them for an IRR transfer per 140-10, Chapter 4-9(a). Despite this, their unit did not process their IRR transfer request or provide alternative accommodations, which ultimately contributed to their separation. Given these circumstances, their discharge was not handled in accordance with Army regulations. The board considered this contention during proceedings.

c. The board determined the discharge is inequitable and too harsh based on the applicant's length of service. Accordingly, the board voted to grant relief in the form of an upgrade of the characterization of service to General (Under Honorable Conditions).

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization of service to General (Under Honorable Conditions) because of the partial mitigation as detailed in paragraphs 10c (1). Thus, the prior characterization is no longer appropriate.

(2) As there were no Reasons/SPD Codes/RE-codes listed on the applicant's discharge paperwork, due to being in the Army Reserves, no upgrade actions are required for these items.

11. BOARD ACTION DIRECTED:

- a. Issue a New Separation Order: Yes
- b. Change Characterization to: General, Under Honorable Conditions
- c. Change Authority to: No Change

Authenticating Official:

3/18/2025



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