

**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2020-118**

██████████ ██████████ ██████████  
SNFS/E3 (former)

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**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on March 12, 2020, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated April 19, 2024, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT’S REQUEST AND ALLEGATIONS**

The applicant alleged that her Coast Guard record is erroneous and unjust because it contains several errors. The applicant claimed that she was incorrectly issued two DD-214s for her Coast Guard service because she served continuously with no break in service. She also requested correction of certain claimed inaccuracies in her DD-214s in blocks 4 (a. Grade, Rate or Rank; b. Pay Grade), 11 (Primary Specialty),<sup>1</sup> 12 (Record [Dates] of Service), 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized), 14 (Military Education), 18 (Remarks), 26 (Separation Code), 27 (Reentry Code), and 28 (Narrative Reason for Separation).

The applicant claimed that she was prematurely discharged from the service after twelve consecutive years and stated that she suffered from mental health issues.

After a [ ] JAG investigation and medical review, there was no validation of any medical or disciplinary issues concerning my active duty military service. I was recommended for retention and in my last six months, I completed all requirements for promotion to 1<sup>st</sup> class DC/FS ranking and pay grade. Unfortunately, my entire chain of command rotated out of the unit 6 months later. The new [ ] command never met to address [ ] my situation with me directly. I remained [on temporary assigned duty (TAD)] for a year when I received a discharge and told I had two weeks to get ready to go home. After much protest I was discharged. This was a mistake by the new command of the USCG [ ] on Feb 17, 2011. My actual rate and rank are DC/FS Petty

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<sup>1</sup> The Coast Guard does not use the “Primary Specialty” block on a DD-214 and leaves that block blank. The member’s rating and education reveal the member’s specialty.

Officer 2<sup>nd</sup> Class who had [] made the Petty Officer 1<sup>st</sup> Class list for promotion before I held two primary rates received after attending USCG School at the Training Centers. The two different DD-214s I enclosed are inaccurately documenting a break in service at a much lower pay grade th[a]n the grade I earned.

The applicant also asked the Board to correct her record to reflect that she served in the following wars not currently listed on her DD-214s: (1) Operation Enduring Freedom (OEF) (September 11, 2001-December 31, 2014); (2) Operation New Dawn (OND) (September 1, 2010 -December 15, 2011); (3) Operation Iraqi Freedom (OIF) (March 19, 2003-August 31, 2010).

In addition, the applicant requested a copy of her honorable Discharge Certificate, a National Guard Report of Separation, and Record of Service.<sup>2</sup>

In support of her application, the applicant provided various records. Only those documents relevant to her application will be summarized in this opinion.

### SUMMARY OF THE RECORD

The applicant served with the Massachusetts Army National Guard between June 1991 and September 1998, for which she received an Honorable Discharge.

The applicant served two tours of duty with the Coast Guard.

The applicant first enlisted on September 15, 1998, as a Seaman (SN), SN/E3. The applicant advanced to Damage Controlman (DC), Third Class, DC3/E-4, on December 21, 1999, and to DC2/E-5 on April 1, 2002. Following several months of performance probation, which she failed, the applicant was reduced in rate to DC3/E-4 for incompetence on or about July 3, 2007. At the time of her discharge on September 14, 2007, the applicant was still a DC3/E-4.

The applicant's DD-214 for her first enlistment with the Coast Guard, which she signed upon receipt, states the following:

Date entered: September 15, 1998  
Date separated: September 14, 2007  
Grade/Rate/Rank: DC3  
Pay Grade: E4  
Type of Separation: Discharge<sup>3</sup>  
Character of Service: Honorable  
Separation Code: MBK  
Reentry Code: RE1  
Narrative Reason for Separation: Completion of Required Active Service

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<sup>2</sup> The Board has confirmed that the Coast Guard did mail the applicant the requested honorable Discharge Certificate as she requested. Regarding the National Guard Report, the Coast Guard does not utilize this form or a comparable form and suggested that the applicant's Direct Access Member Information Report may provide the data she seeks.

<sup>3</sup> There are five types of discharge: three administrative and two punitive. The three administrative discharges are honorable, general—under honorable conditions, and under other than honorable (OTH) conditions. The two punitive discharges may be awarded only as part of the sentence of a conviction by a special or general court-martial.

The applicant's Coast Guard Member Information sheet states her status with the Coast Guard between September 14, 2007, and January 17, 2008, as PSC AT HOME SEP MBRS, TER/DSC [termination/discharge].

After a break in service, the applicant initiated a new Coast Guard enlistment on January 18, 2008. For this enlistment the applicant sought a change of rating to Food Specialist (FS), and accepted enlistment as a SN/E-3. The applicant attended FS "A" School after which she was advanced to FS3/E-4 on or about April 25, 2008.

On October 15, 2009, the applicant was found in violation of UCMJ Article 92 (Failure to obey order or regulation) for reporting late to duty and received Non Judicial Punishment (NJP).

From November 16 through 19, 2009, the applicant was hospitalized for a mental health evaluation and subsequently diagnosed with Personality Disorder Not Otherwise Specified (NOS).

On December 17, 2009, the applicant again received NJP for violation of UCMJ Article 92 and also for violation of UCMJ Article 86 (Unauthorized Absence), at which time she was reduced in rate to a SNFS/E-3. She appealed the second NJP but her appeal was denied on December 28, 2009.

Also on December 17, 2009, the applicant was notified that her discharge was being initiated based on her having received NJP twice within two years. She acknowledged the notification and exercised her right to counsel and to a hearing before an Administrative Separation Board (ASB) on March 31, 2010.

The ASB convened and, following a hearing, recommended the applicant's retention and found that the NJP awarded on December 17, 2009, had been invalid. But by memo dated June 3, 2010, the Convening Authority nonconcurred with the ASB's recommendations and maintained his recommendation for the applicant's separation. Subsequently, the staff judge advocate endorsed the ASB's proceedings and found that they had substantially complied with Coast Guard policies and afforded the applicant legally sufficient process.

On December 29, 2010, the final reviewing authority, CG PSC, found that the record supported both bases (misconduct and unsuitability) for separation but that in consideration of the applicant's diagnosed mental health disorder, the appropriate basis for her separation was "Unsuitability."

CG-PSC-EPM-1 authorized the applicant's separation on January 20, 2011 and the applicant was discharged on February 16, 2011, as an SNFS/E-3 with an Honorable characterization due to Unsuitability. At the time of her discharge, the applicant was an SNFS/E-3.

The applicant's DD 214 for her second enlistment with the Coast Guard, which she signed upon receipt, states the following:

Date entered: January 18, 2008  
Date separated: February 16, 2011  
Grade/Rate/Rank: SNFS  
Pay Grade: E3  
Type of Separation: Discharge  
Character of Service: Honorable  
Separation Code: GFX (Personality Disorder)  
Reentry Code: RE3G (Ineligible to reenlist without a waiver)  
Narrative Reason for Separation: Personality Disorder

### VIEWS OF THE COAST GUARD

On December 21, 2020, a judge advocate (JAG) of the Coast Guard submitted a memorandum in which he adopted the facts and analysis provided by the Commanding Officer of the Coast Guard Personnel Service Center (PSC) and recommended that the Board *grant partial relief* in this case. The recommendation for relief was limited to the re-issuance of her Honorable Discharge Certificate.

PSC argued that the application was untimely based on her separation on February 16, 2011, and her application to the BCMR on May 20, 2020; that there was no record of the applicant having exhausted her administrative remedies by applying in a timely manner to the Coast Guard Discharge Review Board (DRB) in accordance with 33 CFR § 53.13(b); and that that the applicant failed to show that the Coast Guard had committed an error or injustice.

The JAG agreed with PSC's findings and further argued that the Coast Guard's actions were justified because the CGIS investigation provided sufficient evidence to establish, by a preponderance of the evidence, that the applicant had two NJPs within a two year period, had a diagnosed mental health disorder,<sup>4</sup> and had problems getting along with crew members, which created a toxic work environment on the cutter.

The JAG argued that applicant has failed to provide sufficient evidence to show error or injustice in her DD-214, noting:

The applicant's rate and rank upon separation are explained by the various reductions she incurred through her two enlistment periods, to include an involuntary reduction due to performance probation failure/incompetence, a voluntary reduction at her second enlistment due to change in rating, and a reduction awarded as punishment at NJP.

The JAG also noted that:

[W]hile the applicant PDR does not supply as complete a picture as policy would prefer, the applicant's July 3, 2007 reduction for performance probation failure incorporated input "not only from chain of command, but also by two first class DCs, one Coast Guard and one Navy, who provided independent

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<sup>4</sup> Around the time the applicant was an inpatient for mental health evaluation in 2009, she was diagnosed by a military medical doctor with "delusional disorder, persecutory type with a low potential for self-harm and harm to others".

evaluations of her projects, as well as the command master chief and the Applicant's statement".[citation omitted] The presumption of regularity afforded the Agency, dictates that the reduction was executed correctly, lawfully, and in good faith.[citation omitted] Applicant's subsequent break in service and rating change prompted the voluntary reduction evinced by her second enlistment contract. Her final reduction on December 17, 2009, though the subject of much scrutiny by the administrative separation board, was appealed, reviewed and finally affirmed, by two legal offices, Commander, and Commander, CG PSC. Therefore, the rate and paygrade reflected on the Applicant's February 16, 2011 are neither erroneous nor unjust.

The JAG further explained that because the applicant suffered from a mental health disorder at the time of her discharge "unsuitability" was selected in consideration of the potential interrelation of the applicant's discharge and her mental health disorder.<sup>8</sup> The JAG argued that because the applicant suffered from a mental health disorder at the time of her discharge, the Separation Code, Reentry Code, and Narrative Reason for Separation listed on the applicant's DD 214 "accurately reflect the descriptive labeling policy of that time" and therefore the applicant's DD 214 should not be corrected because it does not shock the sense of justice or rise to the level of an error or injustice.

**APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On December 31, 2020, the Chair sent the applicant a copy of the Coast Guard's views and invited her to respond within thirty days. The Chair received a response from the applicant on January 28, 2021. The applicant stated in her response that her record contained misinformation.

At the time, I was never told I was being discharged from service due to any discipline problem by any of my immediate supervisors for which I was assigned to work for in the service. In fact, I had been recognized for multiple accomplishments while serving. I had been awarded an Army Achievement Award, three Good Conduct Medals, more than one Meritorious Team award (15 ribbons in total), and two sets of marks documenting high Ts with recommendations for promotion just before the last two reductions were processed without explanation. The first time, as a Damage Controlmen Second Class. The second was as a Food Service Specialist. My dual rating as a DC2/FS2 is recognized in the paperwork I have enclosed, but never formally acknowledged. There was never a break in service that required two different DD-214s. I served 12 consecutive years, as seen in the documents I provided, However, this was not formally acknowledged. In your documents I see little to no truth. My reductions were due to circumstance not discipline. Each time I was reduced in rank, no valid explanation was given by the command for which I was assigned. Nothing given to me or the Navy JAG Officers who had taken my case at that time.

The first reduction took place when I transferred from the Army National Guard to the U.S. Coast Guard in the year 1998. The second reduction occurred as I was to transfer [] to Food Service "A" School [] in the year 2008. *I was prepared to end my service contract but decided to continue to serve four months later.*

...

There was never any accusation of disciplinary issues brought to the attention of the JAG Officers representing me that year either. There were a few accusations rumored to be the case, but nothing was validated by the JAG Office of [] during their investigation. This is why I have been diligent in my pursuit of explanation. These documents you have provided are only ten years late and full of inaccuracies.

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I feel I need to firmly state the discrepancies in your paperwork, and to assert my claim of Honorable Service as a DC2/FS2 within those twelve years I have completed. There was never a discipline problem verified, never any missed movements, or dishonorable activity in all my 20 years in uniform.

### APPLICABLE LAW AND POLICY

Article 12.B.16(b) of the April 2010 Personnel Manual authorized the Commandant to direct the discharge of an enlisted member for, *inter alia*,

- (1) Inaptitude. Applies to members best described as unfit due to lack of general adaptability, want or readiness of skill, clumsiness, or inability to learn.
- (2) Personality disorders. As determined by medical authority, personality behavior disorders and disorders of intelligence listed in the Medical Manual, COMDTINST M6000.1 (series), Chapter 5.
- (3) Apathy, defective attitudes, adjustment disorder as listed in the Medical Manual, COMDTINST M6000.1 (series), Chapter 5, inability to expend effort constructively, or other observable defect for which a separation designator code (SPD code) exists that renders a member unsuitable for further military service.

Article 12-B-16(h) stated that a member under consideration for discharge for unsuitability must have a physical examination performed by a Public Health Service or Armed Forces medical officer in order to identify and record any physical or mental impairments that the member may have.

The Separation Program Designator (SPD) Handbook dated January 13, 1994, which is Enclosure 2 to the DD-214 Manual, COMDTINST M1900.D, states that one of the authorized narrative reasons for separation for members being discharged under Article 12.B.16. of the Personnel Manual is “personality disorder” for members who receive an involuntary discharge directed by established directive when a personality disorder exists, not amounting to a disability, which potentially interferes with assignment to or performance of duty.” The corresponding reenlistment code is cited as RE-3 (eligible for reenlistment except for disqualifying factor: condition (not physical disability) interfering with performance of duty) [or RE-4]”.

### FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant’s military record and submissions, the Coast Guard’s submission and applicable law:

1. The Board has jurisdiction over this matter pursuant to 10 U.S.C. § 1552(a) to the extent that the applicant is requesting correction of an alleged error or injustice in a Coast Guard military record. The Board has no authority to correct the applicant’s military records from the National Guard.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.<sup>5</sup> The applicant had received and signed both contested

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<sup>5</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

DD-214s by 2011. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged errors in her record no later than 2011, and her application is untimely.

3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>6</sup> In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without “analyzing both the reasons for the delay and the potential merits of the claim based on a cursory review”<sup>7</sup> to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that “the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review.”<sup>8</sup>

a. The applicant did not explain or justify her long delay in contesting the information on her two DD-214s.

b. The Board has reviewed the applicant’s numerous submissions and finds that most of her requests lack potential merit. Although she claimed that she had no break in service, her first Coast Guard DD-214, which she received and signed on September 14, 2007, clearly shows that she was discharged when her enlistment ended on September 14, 2007—i.e., upon her completion of required active service—exactly six years after she enlisted. The record also shows that she was discharged as an SNDC/E-3 because she had been placed on performance probation and had been reduced in rank when she failed performance probation. The applicant has submitted nothing persuasive that contradicts the accuracy of the dates and other information on her first DD-214 issued on September 14, 2007. There are no grounds for removing this first discharge from her record or for issuing just one DD-214 to cover two enlistments and the break in her active duty from September 15, 2007, through January 17, 2008.

The applicant’s military records also show that she reenlisted in the Coast Guard in pay grade E-3 with the intention of becoming an FS on January 18, 2008. Although she had previously held the DC rating, members may not hold more than one rating at a time, and in her second enlistment, the applicant earned the FS rating and advanced to FS3/E-4 by attending FS “A” School. Her records also clearly show that she was reduced in rate to SNFS/E-3 at mast as NJP by her commanding officer. There are no grounds for removing the NJPs from her record or for re-advancing her to FS3/E-4.

Regarding her remaining requests, according to the DD-214 Manual, COMDTINST M1900.4D, the Coast Guard does not use the “Primary Specialty” block on a DD-214 and leaves that block blank as the member’s rating reveals the member’s specialty. Nor has the applicant shown that she served overseas in a combat zone, which would warrant remarks in block 18, or that she earned any medals or received any training that are not already shown on her DD-214s.

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<sup>6</sup> 10 U.S.C. § 1552(b).

<sup>7</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

<sup>8</sup> *Id.* at 164, 165; see also *Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

The applicant's official military records are presumptively correct and the applicant has submitted nothing that casts substantial doubt on their accuracy. Therefore, the Board finds that it is not in the interest of justice to waive the three-year statute of limitations regarding the applicant's requests for correction of her dates of service, rank, pay grade, primary specialty, military service, medals, or training.

4. As noted above, the Board may excuse the untimeliness of an application if it is in the interest of justice to do so,<sup>9</sup> and the Board excuses the untimeliness of a case that falls under the Board's "liberal consideration" guidance concerning requests for discharge upgrades based on a mental health condition.<sup>10</sup> Although the applicant in this case is claiming that she did *not* actually have the mental health condition that was the basis for her discharge, paragraph 26 of the DHS guidance on liberal consideration states, "When a veteran's narrative reason for separation is a mental health diagnosis, such as 'Personality Disorder,' the Board shall liberally consider whether the circumstances of the case warrant changing the narrative reason to 'Secretarial Authority,' 'Condition Not a Disability,' or another authorized narrative reason for separation." Because the applicant's DD-214 states that she was discharged due to a personality disorder, the Board waives the statute of limitations on the issue of the applicant's narrative reason for discharge.

5. Under the "liberal consideration" guidance, when deciding whether to upgrade the discharge of a veteran based on an alleged mental health condition, the Board must liberally consider the evidence, including the applicant's claims, and decide whether the preponderance of the evidence shows that the veteran had mental health condition(s) while in the Service that could excuse the veteran's misconduct; whether the mental health condition(s) actually excused the misconduct that adversely affected the discharge; and, if not, whether the mental health conditions outweigh the misconduct or otherwise warrant upgrading the veteran's discharge. And because veterans must present DD-214s to gain employment and various public and private benefits for veterans, it is very important that the reason for discharge on a DD-214 not be unnecessarily prejudicial. Having a medical diagnosis, such as "Personality Disorder," on one's DD-214 is substantially prejudicial, and in this case, although the applicant committed some misconduct while on active duty, the Board finds that the prejudice is unwarranted and unnecessary.

6. Accordingly, the Board finds that in light of the applicant's diagnosed mental health condition at the time of her discharge from the Coast Guard on February 16, 2011, and consistent with the liberal consideration guidance, it is in the interest of justice to make the following changes to the applicant's second DD 214 reflecting her service with the Coast Guard from January 17, 2008, to February 16, 2011:

- (1) Block 26, the Separation Code should be changed from GFX (involuntary discharge through a separation board due to a diagnosed personality disorder) to GFV (involuntary discharge through a separation board due to a "Condition Not a Disability"); and

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<sup>9</sup> 10 U.S.C. § 1552(b).

<sup>10</sup> DHS Office of the General Counsel, "Guidance to the Board for Correction of Military Records of the Coast Guard Regarding Requests by Veterans for Modification of their Discharges Based on Claims of Post-Traumatic Stress Disorder, Traumatic Brain Injury, Other Mental Health Conditions, Sexual Assault, or Sexual Harassment" (signed by the Principal Deputy General Counsel as the delegate of the Secretary, June 20, 2018).



(2) Block 28, the Narrative Reason for Separation should be changed from “Personality Disorder” to “Condition Not a Disability”.

The applicant also requested a change at Block 27, to her Reentry Code, however, no change is warranted because a RE3G applies to a condition not a disability as well as a member discharged for a personality disorder. Therefore, no other relief is warranted.

7. The applicant made varied allegations and arguments. Those allegations not specifically addressed above are considered to be unsupported by substantial evidence sufficient to overcome the presumption of regularity and/or are not dispositive of the case.<sup>11</sup>

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>11</sup> 33 C.F.R. § 52.24(b); see *Frizelle v. Slater*, 111 F.3d 172, 177 (D.C. Cir. 1997) (noting that the Board need not address arguments that “appear frivolous on their face and could [not] affect the Board’s ultimate disposition”).

**ORDER**

The application of former SNFS [REDACTED] [REDACTED] USCG, for correction of her military record is granted in part as follows. The Coast Guard shall issue her a new DD-214 for the period January 18, 2008, to February 16, 2011, with the following corrections:

- In Block 26, the Separation Code GFX will be corrected to GFV; and
- In Block 28, the Narrative Reason for Separation will be corrected from “Personality Disorder” to “Condition Not a Disability.”

April 19, 2024

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