

180

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-037

FINAL DECISION

Attorney-Advisor:

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The BCMR docketed this case on January 6, 1999, upon receipt of the applicant's completed application.

This final decision, dated November 4, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a former seaman apprentice (SA) in the Coast Guard, asked the Board to correct her military record by changing the reenlistment code, narrative reason for separation, and separation authority on her discharge form (DD 214). She asked that her reenlistment code be changed from RE-4 (not eligible for reenlistment) to RE-3Y (eligible for reenlistment except for disqualifying factor: unsatisfactory performance); that the narrative reason for separation be changed from "Unsuitability" to "Convenience of the Government;" and that the separation authority be changed from Article 12.B.16 of the Personnel Manual (COMDTINST M1000.6A) to Article 12.B.12.a or 12.B.9.

APPLICANT'S ALLEGATIONS

The applicant alleged that during her service in the Coast Guard, she was subject to "continuous harassment by the males in [her] command." Therefore, she alleged, she suffered emotional distress, and "the command classified [her] as not suitable for military service in order to prevent [her] from filing sexual discrimination grievances." She stated that her command "maliciously" began to process her for discharge after she complained about the sexual harassment.

The applicant further stated that her command was in such a hurry to discharge her, they did not provide her with the required pre-separation counseling. By hurrying her discharge, she alleged, her command discharged her two months before she became eligible to receive any veterans benefits or educational benefits.¹ She alleged that prior to discharge, she had paid \$1,700 into an educational account, which she cannot get back.

The applicant alleged that she was not unsuitable for military service. She stated that her (a) prompt advancement from seaman recruit to seaman apprentice, (b) performance as a civil rights leader, member of the color guard, and frequent volunteer at Coast Guard functions, and (c) receipt of a letter of achievement and Team Commendation Ribbon show that she was suitable for military service. She alleged that before being discharged, she was not suffering from an adjustment disorder but from "being centered out and personally attacked by the one Command."

The applicant further stated that she wants her reenlistment code changed so that she can serve in the Coast Guard Reserve.

SUMMARY OF THE RECORD

On September 24, 1996, the applicant enlisted in the Coast Guard for a term of four years. Her first post was [REDACTED]. She enrolled for educational benefits under the Montgomery G.I. Bill (MGIB) on October 8, 1996. She began training and on October 18, 1996, qualified as a pistol marksman.

On January 1, 1997, the applicant qualified as a station communications watchstander. On March 14, 1997, her commanding officer designated her a drug urinalysis sampling observer.

On May 19, 1997, the applicant received non-judicial punishment (NJP) from her commanding officer, a chief warrant officer, at [REDACTED]. She was assigned marks of 2 (on a scale of 1 to 7, with 7 being best) for the performance categories Grooming, Integrity, Respecting Others, and Loyalty.

On May 28, 1997, the applicant received a page 7 administrative entry documenting the NJP and poor evaluation as follows:

[The applicant] has, on several occasions, been counseled on her hair and the fact that it is often messy and not in accordance with uniform regulations. This must be corrected at once. I encourage [the applicant] to find a better way of keeping her hair neat or find a different style/haircut which will be easier to maintain.

¹ In a phone call with BCMR staff, the applicant stated that she had not tried to apply for MGIB educational benefits because she was told by Coast Guard personnel that she would be ineligible due to her early discharge. The applicant indicated that she would apply for MGIB benefits.

[The applicant] has been involved with several incidents in which her integrity was proven to be questionable. She often exaggerates situations and when someone tries to discipline or counsel her, she will bring up, or make accusations, from prior incidents. These are often totally unrelated matters and only an attempt to divert the attention from her.

[The applicant] repeatedly makes comments and accusations concerning this command and the Coast Guard. She does not hesitate trying to get a fellow shipmate in trouble to divert the attention from herself. She even threatened to go to the press concerning her discipline.

It is obvious by the above entries that [the applicant] is not showing the proper respect to others, nor is she cooperating in the team effort to achieve the common goals of this unit and the Coast Guard. Many man hours have been lost in the effort to get [the applicant] on the right track. However, all tolerance has been expended and any further infractions will not be tolerated and dealt with swiftly.

On June 3, 1997, the applicant qualified as a station boat crewman. On June 13, 1997, the applicant completed small arms training and was certified and designated a maritime law boarding team member.

On July 1, 1997, the applicant's commanding officer at [REDACTED] requested that she undergo a psychological evaluation. He submitted the following statements with his request to the psychologist:

[The applicant] has been a leadership challenge for me and this unit's entire chain of command [since she reported to the station]. She has repeatedly exaggerated, lied about situations, and has been prone to inappropriate impulsive behavior.

Most recently while driving in her car with a fellow crew member, while in civilian clothes, she allegedly grabbed her breasts and stated in so many words to the male person in the vehicle stopped in his car alongside her, "Do you want some of these?"

I have repeatedly counseled her on this type of behavior. Not more than a month or two ago she received Non Judicial Punishment (NJP) for grabbing her breast in the unit's cafeteria in front of other male members and stated that her tits itched.

During the same time frame, she received NJP for illegally entering another member's locker.

When she was slow getting qualified, she blamed everyone else but herself for her slow progress. She has difficulty accepting constructive criticism. ... [Once] she alleged that a short lived, inappropriate relationship with the training petty officer had occurred several months before and that is why he was criticizing her. After a thorough investigation, there was no evidence to confirm that the relationship occurred.

Her relationship with the unit's crew has deteriorated to a point at which it does effect [sic] the smooth and efficient operation of the unit. Under my counsel she has been making what appeared to be a valiant effort to improve her relationship with the crew. I was recently very impressed with her efforts

She presently is performing law enforcement and search and rescue duties. I have some serious concerns about issuing a 9MM Baretta pistol and 15 rounds of ammunition to someone who "may" be suffering from some form of impulsive disorder.

Also on July 1, 1997, the applicant was evaluated by a psychologist, who diagnosed an "adjustment disorder with disturbance of conduct." The psychologist stated that the applicant claimed her commanding officer and a few other people at [redacted] were "out to get" her. He reported that "[m]ost noteworthy is her increased defensiveness, perceptions of being victimized, and difficulty assuming responsibilities for her part in any interpersonal conflicts." He further found that the applicant had "some difficulties at present in managing her impulses" and that her "insight and judgment are also questionable at the present time." He concluded that she "may pose a hazard to herself and/or others if she were to work with and/or be issued any weapons at the present time." He advised against issuing her a sidearm and recommended that she receive psychological counseling.

After her psychological evaluation, the applicant signed a statement indicating that she disagreed with the diagnosis. The applicant wrote that, when she arrived at [redacted] three people at the station told her that when the chief of the deck department received news she would be assigned there, he said "Oh great another fucken [sic] female." The applicant further stated that the chief had given her a negative page 7 for "being involved with rumors" within two weeks of her arrival. She also alleged that the coxswain for her duty section did not like to get underway with females and therefore delayed signing her "pracs" (practical qualifications) while the male seaman apprentice on board "had no problem getting things signed off." The applicant stated that two other female seamen had been transferred out of the deck department and that the deck department at [redacted] had a four-year history of "problems with females." The applicant further wrote, "I feel that with the history of problems dealing with females there, that I was never given the opportunity to work well. From being treated this way from day one, I started to feel like there was nothing I could do, every time I brought up an issue it would be used against me, or I was told that I exaggerated." She stated that the Coast Guard was trying to hide the problem at [redacted]

In early July 1997, the applicant was transferred from Station [redacted] to Group [redacted] where she temporarily worked on the administrative staff and in the mail room of the Integrated Support Command (ISC). On July 28, 1997, the applicant received a negative page 7 entry from her commanding officer at Group [redacted] a commander, because she had failed to obey a direct order to change "from her working blues to her tropes [tropical whites] prior to color

guard practice" and afterward fell asleep in her barracks instead of reporting back to work.

On August 8, 1997, Dr. C, a psychiatrist, evaluated the applicant at the request of ISC [REDACTED] Health Services because of her diagnosis by the psychologist. Dr. C reported that the applicant blamed the conflict in [REDACTED] on sexual harassment and claimed she was singled out because of her "sexuality and personality." The applicant told him the chief warrant officer who had sexually harassed her at Station [REDACTED] had been investigated twice for sexual harassment. Dr. C found no evidence of an adjustment disorder and made no psychiatric diagnosis. He found her fit for full duty and fit to carry weapons.

In early August 1997, the applicant received permanent change of station (PCS) orders to Station [REDACTED]. On August 15, 1997, the applicant completed the qualifications for and was advanced to seaman.² On September 2, 1997, she received a Meritorious Team Commendation Ribbon. On September 10, 1997, the commanding officer of Electronic Systems Support Unit [REDACTED] wrote a letter of appreciation for the applicant's "outstanding job presenting Colors for ESU [REDACTED] Change of Command." On October 7, 1997, the applicant qualified as a station watchstander, and on November 18, 1997, she completed Maritime Law Enforcement Boarding Team Member Training. On November 19, 1997, the applicant's commanding officer certified her as a qualified boat crew member, "based upon an evaluation of your performance [by a board] and my opinion that you possess the judgment and maturity necessary to make proper decisions in the line of duty."

On January 20, 1998, the applicant received a negative page 7 entry from a lieutenant, her commanding officer at Station [REDACTED]. The page 7 indicates that the applicant was 45 minutes late for work. She smelled of alcohol, and a blood sample indicated that her blood alcohol content was 0.14. This was her first alcohol incident, and she was forbidden to drink alcohol until after an alcohol abuse screening scheduled for February. She was advised that any further incidents would result in her discharge. As a result of this incident, she received non-judicial punishment (NJP) and a mark of 2 for Health and Well-Being on a performance evaluation dated February 5, 1998.

On March 17, 1998, the applicant's commanding officer forwarded to her a letter of appreciation from the [REDACTED] Police Department for her work during a visit from the Secretary of State. Also on March 17, 1998, the applicant's commanding officer issued a positive page 7 entry commending her for her service as a member of a boat crew that saved 13 persons from a sinking vessel.

On April 21, 1998, the applicant's commanding officer removed her qualification as a watchstander "due to continued discipline problems and lack of maturity." She refused to sign the page 7 entry documenting this action.

² Although the applicant's record indicates that she was advanced to seaman in 1997, she was discharged in 1998 at the rank of seaman apprentice.

On April 24, 1998, the applicant's commanding officer issued another page 7 entry "for being disrespectful to her supervisor and for failure to assist in boat clean ups as required." When her supervisor telephoned her concerning the boat clean up, she apparently raised her voice and hung up on him. She was advised that "[a]ny further incidents will result in further administrative action."

On May 6, 1998, the applicant was evaluated by Dr. Q, the Senior Medical Officer at ISC [REDACTED] Health Services, at the request of her commanding officer following a "continuous pattern of inappropriate behavior." Dr. Q reported the following based on his examination and information provided by her command:

[The applicant's] behavior has been observed declining over the past year and she has become extremely disruptive to the good order and discipline of Station [REDACTED]. A list of chronological situations that have required documentation was provided. [Her] behavior appears consistent with the same pattern exhibited by her while she was attached to Station [REDACTED].

The patient is exhibiting a pattern that is consistent with an Adjustment Disorder with Disturbance of Conduct and should be [discharged]. [She] is not considered mentally ill. She has an adjustment disorder which is rendering her incapable of adequately serving in the US Coast Guard. She claims her behavior is the result of the atmosphere at Station [REDACTED]. She stated she can work somewhere else besides Station [REDACTED] and perform her job very well.

[The applicant] is competent and responsible for her behavior. She does not present any psychiatric contraindication to any appropriate administrative/legal disposition.

On May 7, 1998, the applicant's commanding officer at Station [REDACTED] notified her that he had initiated action to discharge her because she had been "diagnosed with an 'Adjustment Disorder with Disturbance of Conduct' by [Dr. Q], the Senior Medical Officer at ISC [REDACTED] Health Services."

On May 19, 1998, the commanding officer of ISC [REDACTED] made a page 7 entry in her record commending her for "outstanding performance of duty while temporarily assigned to ISC [REDACTED] from 04 May 98 to 12 May 98." The commanding officer stated that during that short time, the applicant had labeled and inventoried over 2,000 engine shop parts and entered them into the records without error.

On May 22, 1998, the applicant's commanding officer "strongly recommend[ed]" her for discharge based on her "performance related issues" and the diagnosis of Dr. Q. The commanding officer reported that she was a "leadership challenge for the entire chain of command. In addition to three NJP's, there have been countless [page 7s] and informal counseling sessions as well as continuous issues concerning her qualification process and her ability to carry out her assigned missions." He stated that she was "prone to inappropriate behavior. Many of her gestures, comments, and actions are of a sexual nature."

On May 26, 1998, the applicant underwent a physical examination prior to discharge. Dr. Q, who signed the report of the examination, found that she had no defects or diagnoses and was fit for full duty "and to perform duties at sea or foreign parts."

On June 17, 1998, the commander of Group [REDACTED] forwarded the recommendation by the commanding officer of Station [REDACTED] that the applicant be discharged to the Coast Guard Personnel Command (CGPC). The commander of Group [REDACTED] recommended that the applicant be discharged by reason of unsuitability. He explained that, after her difficulties at Station [REDACTED] he "opted not to pursue separation but instead worked with the nonrate detailer to have [the applicant] transferred PCS to Station [REDACTED] Station [REDACTED] [REDACTED] was chosen due to its numerous female petty officers and proximity to both Group [REDACTED] staff and the ISC [REDACTED] Medical Officer. ... In conclusion, [the applicant] was afforded a 'second chance' but did not take advantage of it ... I believe [the applicant] is incapable of functioning as a productive Coast Guard member ..."

On June 25, 1998, CGPC approved her command's recommendation and ordered that the applicant be discharged by reason of unsuitability under Article 12.B.16 of the Personnel Manual no later than July 22, 1998. The orders also stated that the applicant's SPD code should be JFX and that the narrative reason on her DD 214 "shall only indicate the appropriate narrative reason for disch[arge] found in [the SPD Handbook]."

On July 22, 1998, the applicant received an honorable discharge with a separation code of JFX (which means "personality disorder; 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") and a RE-4 reenlistment code, pursuant to Article 12.B.16 of the Personnel Manual. However, the narrative reason shown on her DD 214, "Unsuitability," is not listed in the SPD Handbook.

Character Reference

On May 22, 1998, the applicant's supervisor at ISC [REDACTED] signed a letter stating that the applicant had been "a valuable and most resourceful asset to the Integrated Support Command staff." She stated that the applicant was "an eager, productive team member, making her a dynamic performer within our office." The supervisor further stated that the applicant "revamped and reorganized the entire mail room process" and prepared a standard operating procedure for the mail room process.

VIEWS OF THE COAST GUARD

On September 21, 1999; the Chief Counsel of the Coast Guard submitted an advisory opinion recommending that the Board deny the requested relief due to incompleteness or failure of proof.

The Chief Counsel stated that the applicant had failed to offer any proof that her command had discharged her to prevent her from filing a complaint of sexual harassment. He stated that she complained of sexual harassment at Station [REDACTED] but not at Station [REDACTED] whose commanding officer initiated her discharge. The Chief Counsel argued that the applicant was transferred to Station [REDACTED] to give her a "second chance," but she failed to take advantage of it.

The Chief Counsel argued that "neither the Coast Guard nor the Board can effectively address the merits of this application because of its vagueness and the lack of proof" because the applicant failed to file either an informal or formal military civil rights complaint.

The Chief Counsel also stated that, "[i]n the event that neither the Chairman, nor the Board, elects to dispose of this case as recommended, the Coast Guard requests immediate notice of that decision, including the reasons therefor, and notice as to any issues that the Chairman or the Board deems to have been raised by this application, so that we can take appropriate action." The Chief Counsel did not state that the case involves a significant issue of Coast Guard policy, which would require review of any Board decision contrary to the Chief Counsel's recommendation.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 22, 1999, the Chairman sent the applicant a copy of the views of the Coast Guard and invited her to respond within 15 days.

On October 15, 1999, the applicant responded. She stated that there is no proof she was unsuitable for military service. Moreover, she argued that the report of Dr. C, a psychiatrist at ISC [REDACTED] Health Services, and the letter of recommendation from her supervisor at ISC [REDACTED] prove that she was suitable for military service.

The applicant further stated that she was never told she could file a "formal or informal military civil rights complaint" as discussed by the Chief Counsel. She asked for another chance to prove that she can be a valuable asset to the Coast Guard.

APPLICABLE LAW

Coast Guard Regulations

Article 12B.16 of the Coast Guard Personnel Manual authorizes enlisted personnel to be discharged by reason of unsuitability at the direction of the Commandant for inaptitude, personality disorders, apathy, defective attitudes, inability to expend effort constructively, unsanitary habits, alcohol abuse, financial irresponsibility, or sexual harassment. Article 12.B.16.b of the Personnel Manual

authorizes unsuitability discharges for members diagnosed with one of the "personality behavior disorders ... listed in Chapter 5, CG Medical Manual ..."

Article 5.B.2 of the Medical Manual (COMDTINST M6000.1B) lists personality disorders that qualify a member for administrative discharge pursuant to Chapter 12 of the Personnel Manual. Adjustment disorders are not included among the personality disorders listed. The list does include "personality trait(s) considered unfitting per paragraph 3-F-16.c." Article 3.F.16.c provides that personality and sexual disorders, personality traits, and "disorders of impulse control not elsewhere classified ... may render an individual administratively unfit [for duty] rather than unfit because of a physical impairment. Interference with performance of effective duty will be dealt with through appropriate administrative channels (see Section 5-B)."

Adjustment disorders are, however, listed in Article 5.B.3 of the Medical Manual, which states that they "are generally treatable and not usually grounds for separation. However, when these conditions persist or treatment is likely to be prolonged or non-curative (e.g. inability to adjust to military life ...) process in accordance with [Article 12 of the Personnel Manual] is necessary."

Article 3.F.16.d of the Medical Manual states that adjustment disorders "do not render an individual unfit because of physical impairment. However, if these conditions are recurrent and interfere with military duty, are not amenable to treatment, or require prolonged treatment, administrative separation should be recommended (see Section 5-B)."

Article 12.B.9 of the Personnel Manual provides the procedure for discharging enlisted members "whose performance demonstrates they cannot or will not contribute to supporting the Coast Guard's missions."

Article 12.B.12.a of the Personnel Manual permits members to be discharged for the "convenience of the government" if they are unsatisfactory performers.

Article 1.E. of the Coast Guard Instruction for completing discharge forms states that a member's DD 214 should show a separation authority, SPD code, and reenlistment code "as shown in the SPD Handbook or as stated by the [Military Personnel Command] in the message granting discharge authority." The narrative reason for separation on the DD 214 must be whatever is specified by the Military Personnel Command.

The Separation Program Designator (SPD) Handbook states that members who are involuntarily discharged by direction "when a personality disorder exists, not amounting to a disability, which potentially interferes with assignment to or performance of duty" shall be assigned a separation code of JFX, a narrative reason for separation of "Personality Disorder,"³ and a reenlistment

³ The applicant, however, received a narrative reason of "Unsuitability" with the separation code JFX and the reenlistment code RE-4.

code of RE-4 or RE-3G, which means eligible for reenlistment except for a "condition (not a physical disability) interfering with performance of duty."

The SPD Handbook states that members who are involuntarily discharged by direction after performing "acts of unacceptable conduct (i.e., moral and/or professional dereliction) not otherwise listed" shall be assigned a separation code of JNC; a narrative reason for separation of "Unacceptable Conduct"; and a reenlistment code of RE-4.

The SPD Handbook states that members who are involuntarily discharged by direction when they fail to perform duties and assignments satisfactorily shall be assigned a separation code of JHJ; a narrative reason for separation of "Unsatisfactory Performance"; and a reenlistment code of RE-4 or RE-3Y (eligible for reenlistment except for disqualifying factor: unsatisfactory performance).

The SPD Handbook states that members who are involuntarily discharged by direction when they have "a condition, not a physical disability, which interferes with the performance of duty (Enuresis, motion sickness, allergy, obesity, fear of flying, et al.)" shall be assigned a separation code of JFV; a narrative reason for separation of "Condition, Not a Disability"; and a reenlistment code of RE-4, RE-3G, or RE-3X (eligible for reenlistment except for disqualifying factor: motion sickness or nonswimmer).

The SPD Handbook states that members who are involuntarily discharged by direction when the Coast Guard "desires to identify reasons collectively 'All other reasons' which qualify a member for separation" shall be assigned a separation code of JND; a narrative reason for separation of "Separation for Miscellaneous/General Reasons"; and a reenlistment code of RE-4 or RE-1.

United States Code

Title 38 U.S.C. § 3011(a) provides as follows:

Except as provided in subsection (c)⁴ of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces ... and—

(i) who [serves at least three years of continuous active duty] ...; or

(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disabil-

⁴ Subsection (c) of 38 U.S.C. § 3011 permits members to elect not to receive MGIB benefits. This subsection does not apply to the applicant because she enrolled for MGIB benefits on October 18, 1996.

ity and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard ...

(2) who, except as provided in subsection (e) of this section, completed the requirements of a secondary school diploma (or equivalency certificate) ...; and

(3) who, after completion of the service described in clause (1) of this subsection—

(A) continues on active duty;

(B) is discharged from active duty with an honorable

discharge; ...

is entitled to basic educational assistance under this chapter. [Emphasis added.]

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10, United States Code. The application was timely.

2. The applicant requested an oral hearing before the Board. The Chairman, acting pursuant to 33 C.F.R. § 52.31, denied the request and recommended disposition of the case without a hearing. The Board concurs in that recommendation.

3. The applicant asked the Board to change her reenlistment code from RE-4 to RE-3Y (eligible for reenlistment except for disqualifying factor: unsatisfactory performance); her narrative reason for separation from "Unsuitability" to "Convenience of the Government"; and the separation authority for her discharge from Article 12.B.16 of the Personnel Manual to Article 12.B.12.a or 12.B.9. She alleged that her discharge was the result of sexual harassment by members of her command at Station [REDACTED]

4. The applicant presented no evidence to support her allegations that she was the victim of sexual harassment at either Station [REDACTED] or Station [REDACTED] the unit whose command initiated her discharge. Nor did she present any evidence that she was discharged for unsatisfactory performance of work or for the convenience of the government.

5. The evidence indicates that the applicant behaved inappropriately and caused conflict at Station [REDACTED] and was diagnosed with an adjustment disorder. She was then given a "second chance" by being transferred to Station [REDACTED]. However, at the new station, the applicant again behaved inappropriately and was again diagnosed with an adjustment disorder. Her record of

inappropriate behavior and psychiatric diagnoses supports her discharge for unsuitability under Article 12.B.16 of the Personnel Manual.

6. The applicant's SPD code, JFX, is for a member involuntarily discharged because of a personality disorder. The applicant was diagnosed twice with an "adjustment disorder with disturbance of conduct," rather than a personality disorder. There is no SPD code specifically for people diagnosed with adjustment disorders. However, Article 5.B.3 of the Medical Manual clearly authorizes administrative discharges for members whose adjustment disorders continue to cause problems, and Article 12.B.16.b of the Personnel Manual authorizes unsuitability discharges for members with "personality behavior disorders ... listed in Chapter 5, CG Medical Manual." There are a limited number of separation codes available to the Coast Guard; they cannot be tailor-made to reflect exactly the circumstances of each member's discharge. Therefore, given the lack of an SPD code specifically for members discharged due to adjustment disorders, the Board finds that the Coast Guard committed no error or injustice by assigning the applicant a JFX separation code.

7. According to the SPD Handbook, members assigned the JFX SPD code receive a reenlistment code of either RE-4 or RE-3G. The applicant has not proved that the Coast Guard erred or committed an injustice by assigning her the RE-4 reenlistment code. Nor has she proved that she should have been assigned the reenlistment code RE-3Y for unsatisfactory job performance. The record indicates that her administrative work was greatly appreciated by many people in the Coast Guard.

8. The combination of SPD code and narrative reason for separation shown on the applicant's DD 214 (JFX and "Unsuitability") does not appear in the SPD Handbook. Members assigned the SPD code JFX usually receive the narrative reason "Personality Disorder," and the SPD Handbook no longer includes the narrative reason "Unsuitability." However, the instructions for completing discharge forms (COMDTINST M1900.4B) apparently permit some flexibility, as commands are told either to follow the SPD Handbook or to assign members whatever codes are cited in the member's discharge orders from the Personnel Command. Although the applicant's discharge orders instructed her command to assign her a narrative reason for separation from the SPD Handbook, the Board does not believe that it would be in the applicant's interest to change her narrative reason for separation from "Unsuitability" to "Personality Disorder."

9. The applicant also alleged that, because of her early discharge, she is ineligible for medical and educational benefits. The applicant did not present any evidence indicating that she has been denied benefits to which she is legally entitled. Apparently, she never applied for MGIB benefits because Coast Guard personnel told her that her early discharge made her ineligible. The Chief Counsel of the Coast Guard did not address the applicant's eligibility for benefits in his advisory opinion to the Board. The Board finds that under 38 U.S.C. § 3011, the applicant may be eligible for MGIB benefits because she was discharged due to an adjustment disorder and assigned an SPD code indicating she had a per-

sonality disorder, each of which could be considered a "mental condition that was not characterized as a disability and did not result from [her] own willful misconduct but did interfere with [her] performance of duty." 38 U.S.C. § 3011(a)(1)(A)(ii)(I). Because the applicant's eligibility for MGIB benefits is determined by the Department of Veterans Affairs [DVA] and she did not apply to the DVA prior to applying to the Board, the Board finds that this issue cannot be properly addressed at this time. Therefore, the issue of the applicant's eligibility for MGIB benefits should be dismissed without prejudice.

10. The applicant has not proved that the Coast Guard committed any error or injustice by discharging her under Article 12.B.16 of the Personnel Manual with an SPD code of JFX, a reenlistment code of RE-4, and a narrative reason for separation of "Unsuitability."

11. Accordingly, the applicant's claims concerning her eligibility for MGIB benefits should be dismissed without prejudice and the remainder of her requests should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application for correction of the military record of _____, USCG, is hereby denied. However, her claims regarding her MGIB benefits are dismissed without prejudice. If she is denied MGIB benefits by the DVA, she may apply again to the BCMR, and the Board will consider her allegations concerning her MGIB eligibility de novo.

