


BCMR
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DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-149

FINAL DECISION

 Chairman:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was commenced on July 9, 1999, upon the Board's receipt of a complete application for correction of the applicant's military record.

This final decision, dated May 10, 2000, 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/boatswain's mate (SNBM; pay grade E-3), asked the Board to change his reenlistment code from RE-4 (not eligible for reenlistment) to RE-1 (eligible for reenlistment) and to change his separation code from HKM (misconduct) to a positive one.

He received non-judicial punishment (NJP) in December 1997 concerning "an inappropriate relationship with an officer" of the opposite sex.¹ He admitted "what [he] did was not in the best interest of the U.S. Coast Guard and was prejudice (sic) to good order and discipline of the service."

He served 10 years in the Coast Guard with distinction, until he was discharged on December 7, 1998, by reason of misconduct (HKM). His military record did not contain any specific findings or description of the relationship that was deemed prohibited, except for the conclusion that the applicant, who was a male enlisted member, had had a "prohibited romantic relationship" with a named female officer, before and after he was ordered not to "have any contact" with her "directly or indirectly" for a six-month probationary period.

¹ The NJP was also issued because the applicant provided a weapon to a Coast Guard member he knew to be "emotionally distraught" and issued a challenge to that member to commit suicide.

SUMMARY OF RECORD

On December 10, 1997, the applicant received an NJP (non-judicial punishment) for engaging in a "prohibited relationship" with a female officer. The next day, he was placed on six months probation and ordered not to "directly or indirectly have any contact" with that female officer. Subsequently, the applicant's command determined that he had violated this order by continuing his relationship with the female officer. The applicant waived his right to an administrative discharge board. In December 1998, he was discharged from the Coast Guard by reason of misconduct and granted an RE-4 (not eligible for reenlistment) reenlistment code.

VIEWS OF THE COAST GUARD

On March 9, 2000, the BCMR received an advisory opinion from the Chief Counsel of the Coast Guard. The advisory opinion recommended that no relief be granted to the applicant.

The Coast Guard asserted that there is no basis for a grant of relief. The applicant does not allege error by the Coast Guard, and the applicant suffered no injustice. He admitted violating his performance probation "and does not dispute that his punishment was . . . 'justly deserved.'"

RESPONSE OF THE APPLICANT

On March 10, 2000, a copy of the views of the Coast Guard was sent to the applicant along with a cover letter from the Chairman of the Board urging the applicant to notify the Board in writing if he had any objection to the Coast Guard's views.

The applicant did not send any response to the Board.

FINDINGS AND CONCLUSION

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

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

2. On December 11, 1997, the Coast Guard placed the applicant on six-month-probationary status and ordered him not to "directly or indirectly have any contact with [redacted] her relatives, friends, or neighbors." The applicant was advised that he faced a misconduct discharge if he was not making a "significant effort" to comply with the order during the probationary period.

3. Subsequently, the applicant's command determined that he had violated the order by continuing his relationship with the same officer.

4. On December 7, 1998, the applicant was discharged from the Coast Guard. The applicant was involuntarily discharged by reason of misconduct and was declared to be ineligible to reenlist in any military service of the United States.

5. The applicant has not proved that the Coast Guard committed any error or injustice in ordering the applicant discharged with an RE-4 reenlistment code.

6. Accordingly, the application should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application to correct the military record of former
USCG, is denied.

