

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


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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2004-099**

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**FINAL DECISION**

 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 application was docketed on April 23, 2004, upon receipt of the applicant's completed application and military records.

This final decision, dated January 27, 2005, is signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST**

The applicant asked the Board to correct her military record by changing the reason for her honorable discharge from unacceptable conduct to physical disability.

**APPLICANT'S ALLEGATIONS**

The applicant alleged that she should have been discharged by reason of physical disability because she suffered from depression, a sleep disorder, and a broken collarbone that caused her discharge from the Coast Guard. She stated that she wants her DD Form 214 to accurately reflect the reason for her discharge.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard Delayed Entry program on February 23, 2002. She was discharged from this program and entered active duty on September 10, 2002.

On February 19, 2003, the applicant was taken to an emergency room because she had "intentionally lacerated her right wrist with a belt buckle and razor." The medical report of this visit indicated that the applicant was unhappy being in the Coast Guard and wanted to return home. The applicant was discharged from the hospital with a diagnosis of "impulsive suicidal gesture," "situational anxiety and depression," and "superficial abrasion, right wrist." She was referred to a community mental health facility for follow-up care.

On February 25, 2003, a Navy psychiatrist recommended that the applicant be administratively discharged from the Coast Guard due to a personality disorder. He diagnosed the applicant as suffering from a personality disorder NOS, with borderline and histrionic features. He stated that the applicant's condition was not amenable to treatment routinely available in a military setting. He further stated, "Continued service places both this service member and her colleagues at risk. This sailor should not be granted access to weapons, sensitive materials, or government vehicles. Follow-up care should continue through date of discharge."

The record also contains an "Intake Note" from a psychologist dated March 4, 2003. The note indicated that the applicant reported feeling lonely, bored, and withdrawn, but denied that she had any plans to harm herself. The psychologist diagnosed the applicant as suffering from an adjustment disorder with acute depressed mood and difficulty adjusting to military life. He recommended that the applicant be treated with individual therapy.

On October 22, 2003, a clinician wrote that the applicant had been a patient at a family center since April 2003. This individual stated that the applicant received treatment for insomnia and depression, which was currently in remission on medication. He further stated that "[the applicant] has had problems with poor sleep in the station environment, and I would request that she be allowed to maintain a residence off base."

On December 22, 2003, the officer in charge (OIC) advised the applicant that he was recommending that the applicant be discharged with a General Discharge by reason of personality disorder NOS, with borderline and histrionic features. The applicant acknowledged that she could object to the discharge, request to speak with a lawyer, and submit a statement in her own behalf.

On December 22, 2003, the applicant submitted a statement objecting to her proposed discharge. She asked to be retained in the Coast Guard. She acknowledged that she had difficulties with depression and had attempted suicide. However, the applicant asserted that her condition had improved and that she had been told that she

did not need further counseling or medication. She stated that her performance had improved and that she had become boat crew qualified.

On December 26, 2003, the OIC recommended that the Commander, Coast Guard Personnel Command (CGPC) discharge the applicant with a General Discharge due to a personality disorder based on the diagnosis of the Navy psychiatrist. The OIC also noted the applicant's numerous administrative remarks (page 7s) negative counseling entries, numerous reports of offenses, and two dishonored checks written to the Coast Guard. He elaborated as follows:

Due to [the applicant's] continued unstable mental state, I have lost confidence in her ability to perform her required duties and responsibilities and am concerned for her well-being if not released. On 26Sep03 [the applicant] was placed on performance probation and has shown no improvement in her maturity, integrity or loyalty to this service. [The applicant] still continues to show up to work late and or too tired to perform her duties. Since [the applicant] reported she has had her qualifications pulled, been placed on report six times, and has twelve negative [page 7s] and two dishonored checks reported back from the finance center. One of these Reports of Offense coming only four days after being told that this Command was recommending her for discharge from the Service. Member has been sent to local medical facilities to see if there was some underlining medical condition that was contributing to her tardiness [.] Negative conditions [were] found.

On February 4, 2004, Commander, Coast Guard Personnel Command approved the applicant's honorable separation from the service due to unsuitability. He stated that the applicant should be discharged with an honorable discharge "by reason of unsuitability due to apathy, defective attitudes, adjustment disorder and inability to expend effort constructively under Article 12.B.16 of [the Personnel Manual]." He stated that the applicant should receive a JNC (unacceptable conduct) separation code and be discharged no later than March 4, 2004.

On February 4, 2004, the applicant reported to the emergency room after falling and landing on her right shoulder. She complained of pain around her mid clavicle. X-rays showed a fracture of the mid clavicle with minimal displacement. She was placed in a sling and told not to return to work until cleared by the orthopedic surgeon.

On February 10, 2004, the applicant underwent a medical examination and was found fit for service. The physician noted on the physical examination form that the applicant had suffered a clavicle fracture and that her depression was controlled or in remission. He also seemed to note that the applicant was undergoing an administrative separation due to a personality disorder.

On March 3, 2004, an x-ray revealed the clavicle fracture was healing nicely.

On March 4, 2004, the applicant was discharged from the Coast Guard by reason of unacceptable conduct with the corresponding JNC separation code.

*Page 7 Administrative Entries and Other Documentation*

Between April 15, 2003, and December 22, 2003, twelve negative counseling entries (page 7s) were entered into the applicant's record. The applicant was counseled for tardiness repeatedly, for falling asleep during training and on duty, for visiting unauthorized websites, for involving a government vehicle in a collision, and for unsatisfactory marks in conduct that resulted in the termination of her good conduct eligibility period.

In July and October 2003, the applicant wrote two checks to the Coast Guard in the amounts of \$81.10 and \$964.45 that were dishonored when presented for payment. (There is no documentation in the record showing that the applicant made restitution for the dishonored checks).

The military record indicates that the applicant was taken to captain's mast (punishment under Article 15 of the Uniform Code of Military Justice (UCMJ)) on October 24, 2003, and was punished with 8 days of extra duties. (The offense for which the applicant was punished is not discernable from the record.)

On December 22, 2003, the applicant was punished at captain's mast for failure to obey a lawful order or regulation by not reporting to work on time as directed. She was restricted to the station for 8 days and given extra duties for 8 days.

### **VIEWS OF THE COAST GUARD**

On October 18, 2004, the Judge Advocate General (TJAG) of the Coast Guard submitted an advisory opinion. A memorandum from CGPC was attached to the advisory opinion as Enclosure (1). TJAG asked the Board to accept the memorandum as part of the advisory opinion.

CGPC recommended that the Board deny the applicant's request to have her record reflect a medical discharge. In this regard he stated the following:

The applicant's specific request to change the narrative reason of her separation from "Unacceptable Conduct" to "Medical" should not be granted. Per current and longstanding Coast Guard policy the Applicant's diagnosed Personality Disorder is not considered a medical condition for

separation purposes, but may be the basis for an administrative separation. There was no basis to medically separate the Applicant or introduce her into the Physical Disability Evaluation System (PDES). As per the Applicant's injury sustained on February 4, 2004, . . . Coast Guard policy states that service members being processed for separation or retirement for reasons other than physical disability shall not be referred for disability evaluation unless their physical condition reasonably prompts doubt that they are unfit to continue to perform adequately in their assigned duties. The applicant was treated for her injuries and completed an additional separation physical to confirm her physical qualification for separation.

However, CGPC noted that the applicant's DD Form 214 did not correctly reflect the reason for her discharge. He stated that it was evident that the applicant was diagnosed with and processed for discharge due to a personality disorder. He therefore recommended that the applicant's DD Form 214 be corrected as follows:

Block 25. Change separation code to JFX

Block 26. Change reentry code to RE-3G

Block 28. Change narrative reason for separation to personality disorder.

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

On December 6, 2004, the BCMR received the applicant's response to the views of the Coast Guard. She stated that she agreed with the advisory opinion.

### **APPLICABLE LAW**

#### ***Personnel Manual (COMDTINST M1000.6A)***

Article 12.B.16 of the Personnel Manual lists "Personality Disorders" and "Apathy, Defective Attitudes, and Inability to Expend Effort Constructively" as bases for an unsuitability discharge.

#### ***Medical Manual (COMDTINST M6000.1B)***

Chapter 5.B.2. lists the following as personality disorders: Paranoid, Schizoid, Schizotypal, Obsessive Compulsive, Histrionic, Dependent, Antisocial, Narcissistic, Avoidant, Borderline, and Personality disorder NOS (includes Passive-aggressive).

Chapter 5.B.3. states that adjustment disorders may be grounds for separation when such conditions are persistent or treatment is likely to be prolonged or non-curative (e.g., inability to adjust to military life/sea duty, separation from family/friends) . . ."

### *Physical Disability Evaluation System Manual*

Chapter 2.A. 7. lists personality disorders among those conditions and defects that may cause a member to be unfit for continued duty and yet not be physically disabled within the meaning of the law, thereby resulting in the member's administrative separation.

Chapter 2.C.2.e. of the PDES Manual states that "[a member] convalescing from a disease or injury which reasonably may be expected to improve so that he or she will be able to perform the duties of his . . . rank or rating in the near future may be found fit for duty."

### *Separation Program Designator (SPD) Handbook*

The SPD Handbook defines a discharge by reason of unacceptable conduct with a JNC separation code as an "Involuntary discharge directed by established directive (no board entitlement) when [a] member performs acts of unacceptable conduct (i.e., moral and/or professional dereliction) not otherwise listed."

The SPD Handbook authorizes the assignment of an RE-3G or an RE-4 reenlistment code with a personality disorder discharge. It defines a personality disorder discharge with a JFX separation code as an "Involuntary discharge directed by established directive when a personality disorder exists, not amounting to a disability, which potentially interferes with the assignment to or performance of duty."

## **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 of the United States Code. The application was timely.
2. The applicant has not proved by a preponderance of the evidence that she suffered from a physical disability that caused her to be unfit for continued duty, and therefore, she is not entitled to a disability separation. The applicant was diagnosed

with personality and adjustment disorders while on active duty. However, according to Chapter 2.A.7. of the PDES Manual, such disorders are not physical disabilities and service members who suffer from such conditions are not processed under the physical disability evaluation system, but may be administratively separated under Chapter 12 of the Personnel Manual.

3. Moreover, there is no indication in the record that the applicant suffered from any other conditions that would have entitled her to a discharge by reason of physical disability. Article 2.C.2.b. of the PDES Manual states, "The law that provides for disability . . . separation . . . is designed to compensate a member whose military service is terminated due to a physical disability that has rendered him or her unfit for continued duty." Article 2.C.2.a. states that the sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of one's rank or rating.

4. Although the applicant suffered a right clavicle fracture, there is no evidence in the record that the fracture caused the applicant to be unfit for continued duty. In this regard, the applicant underwent a physical examination on February 10, 2004, and was found fit for duty, although her right clavicle fracture had not completely healed. The medical evidence indicated that the fracture was healing nicely. Article 2.C.2.e. of the PDES Manual states that "[a member] convalescing from a disease or injury which reasonably may be expected to improve so that he or she will be able to perform the duties of his . . . rank or rating in the near future may be found fit for duty." There is no evidence that the applicant suffered any permanent disability as a result of this fracture that would cause her to be unable to perform the duties of her rank and rating.

5. The Board finds, in contrast to the advisory opinion, that the applicant's discharge by reason of unacceptable conduct was not in error or unjust. The numerous negative page 7s, two dishonored checks, and NJPs support an unacceptable conduct discharge. However, we also find that medical documentation in the applicant's military record supported a discharge by reason of personality disorder, as requested by her OIC. In light of this finding, TJAG's recommendation that the applicant's DD Form 214 be corrected to show that she was discharged by reason of personality disorder rather than unacceptable conduct, and the applicant's acceptance of this relief, the Board will direct that the reason for the applicant's discharge be changed to personality disorder, with a JFX separation code, and an RE-3G reenlistment code.

6. Accordingly, the applicant is entitled to the relief discussed above.

**[ORDER AND SIGNATURES ON FOLLOWING PAGE]**





**ORDER**

The application of \_\_\_\_\_ USCG, for correction of her military record is hereby granted in part. Her DD Form 214 shall be corrected as follows:

Block 26 shall be corrected to JFX (personality disorder) as the separation code.

Block 27 shall be corrected to show RE-3G as the reenlistment code.

Block 28 shall be corrected to show personality disorder as the reason for separation.

The Coast Guard shall issue the applicant a new DD Form 214.

All other requested relief is denied.

