

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2005-002

XXXXX XXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

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 October 1, 2004, upon receipt of the applicant's completed application and military records.

This final decision, dated June 9, 2005, is 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, a former seaman yeoman (SNYN) in the Coast Guard, asked the Board to correct her military record by upgrading the reenlistment code on her discharge form (DD 214) so that she would be eligible to reenlist. She was discharged on January 3, 2000, with an RE-4 reenlistment code (ineligible for reenlistment), a JFX separation code (unsuitable for service due to a personality disorder), and "Personality Disorder" as the narrative reason for separation shown on her DD 214.

The applicant stated that she wants to go back on active duty and is fully capable of performing her job. She alleged that her work history since her discharge from the Coast Guard proves that she is a dedicated and hard worker. In support of this allegation, she submitted a letter from her employer stating that she "has proven herself to be very dependable and reliable. She has shown

good work ethic and is a self-starter. Heather shows integrity in her dealings with others, and has a positive attitude towards all things.”

SUMMARY OF THE RECORD

On September 15, 1997, the applicant enlisted in the Coast Guard for a term of four years. After completing boot camp, she was assigned to a cutter.

On July 7, 1999, the applicant received non-judicial punishment (NJP) from her commanding officer (CO). She was found to have created false travel orders for a friend and the applicant was subsequently punished with a reduction in pay grade. On the page 7 administrative entry¹ documenting the NJP, she was assigned marks of 2 (on a scale of 1 to 7, with 7 being best) in the “Responsibility” and “Integrity” performance categories.

On September 23, 1999, and October 8, 1999, the applicant was evaluated at a naval mental health clinic for a variety of problems. On November 9, 1999, the applicant was evaluated for a third time by a psychiatrist at the mental health clinic, who noted a history of depressed mood, occasional suicidal ideations, social withdrawal, decreased sleep, anhedonia,² decreased energy, and decreased concentration. Following her examination of the applicant, the psychiatrist reported that:

This service member has been clinically determined to be unsuitable for continued service based upon a DSM [Diagnostic and Statistical Manual of Mental Disorders] IV diagnosis of an Adjustment Disorder with depressed mood and Axis II diagnosis of Cluster B traits are sufficiently severe as to preclude satisfactory performance of duty. Her disorder is a consequence of her personality traits and concurrent inability to tolerate the military environment. Given the member’s personality style that makes her vulnerable to affective illness and poor judgment, she is likely to continue to experience emotional difficulties. No amount of training or leadership will reverse this condition. Her personality traits existed prior to enlistment and are likely to continue even beyond discharge from military service. Hospitalization is not warranted at this time. Administrative separation is strongly recommended.

On November 17, 1999, the applicant’s commanding officer formally notified her that he was initiating her discharge under Article 12.B.12.a. of the

¹ An Administrative Remarks, or Page 7, entry documents any counseling that is provided to a service member as well as any other noteworthy events that occur during that member’s military career.

² Anhedonia is a “total loss of feeling of pleasure in acts that normally give pleasure.” DORLAND’S ILLUSTRATED MEDICAL DICTIONARY, 29TH ED. (2000), p. 89.

Coast Guard Personnel Manual because she had been diagnosed as having an adjustment disorder. The CO also notified her that she was entitled to submit a statement on her own behalf. The applicant signed a statement acknowledging the notification, waiving her right to submit a statement, and indicating that she did not object to being discharged.

On November 22, 1999, the CO recommended to the Coast Guard Personnel Command (CGPC) that the applicant be honorably discharged for the convenience of the government, based on her diagnosed adjustment disorder with depressed mood. The CO wrote that the applicant had been clinically determined to be unsuitable for continued service based upon her diagnosis.

On December 7, 1999, CGPC ordered the CO to discharge the applicant, in accordance with Article 12.B.16., no later than January 3, 2000, with an honorable discharge by reason of unsuitability, and with the "appropriate narrative reason for discharge found in the separation program designator [SPD] handbook." The applicant was discharged on January 3, 2000, with the JFX separation code, an RE-4 reenlistment code, and "Personality Disorder" as the narrative reason for separation.

Prior to filing her application with the Board, the applicant submitted a request to the Coast Guard's Discharge Review Board (DRB) for the same relief requested from the BCMR. On April 6, 2004, the DRB denied the applicant's request, stating that her discharge had been carried out in accordance with Coast Guard policy. On July 15, 2004, the Commandant reviewed the DRB's decision and approved its finding that the applicant's discharge was proper.

VIEWS OF THE COAST GUARD

On February 14, 2005, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant relief by correcting the applicant's DD 214 to show a different separation authority, separation code, reentry code, and narrative reason for separation.

The JAG relied on a memorandum from the Coast Guard Personnel Command (CGPC) concerning the applicant's request. CGPC recommended that partial relief be granted, and stated that the applicant's discharge did not conform to the diagnosis provided by the psychiatrist who evaluated her and recommended her discharge. CGPC noted that the applicant was diagnosed with an adjustment disorder, but her DD 214 states that the reason for separation was a personality disorder. CGPC further stated, "absent any record of any psychological diagnosis stating such, I must assume that the decision to discharge the applicant due to personality disorder was in error." CGPC alleged

that the applicant is harmed by the continued assignment of the JFX separation code and the RE-4 reenlistment code because they prevent the applicant from reenlisting.

CGPC recommended that four changes be made to the applicant's DD 214. It recommended that the separation authority be changed to Article 12.B.12. of the Personnel Manual, that the separation code be changed to JFV,³ that the reenlistment code be changed to RE-3G,⁴ and that the narrative reason for separation be changed to "Condition, Not a Disability."

³ JFV is used to denote an involuntary separation when a condition, not a physical disability, interferes with the performance of duty. SPD Code Handbook, page 2-5.

⁴ An RE-3G means that the veteran is eligible for reenlistment if she can prove that she no longer has the condition for which she was originally discharged.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 24, 2005, the BCMR sent the applicant a copy of the views of the Coast Guard and invited her to respond within 30 days. She responded on March 17, 2005, stating that she did not object to the Coast Guard's recommendation.

APPLICABLE LAW

Article 12.B.12.a. of the Coast Guard Personnel Manual provides that the Commander may authorize or direct the separation of enlisted members for a number of reasons, including unsuitability.

Chapter 5.B.2. of the Coast Guard Medical Manual lists the personality disorders for which a member may be separated. Adjustment disorders are not included and are addressed in Chapter 5.B.3 of the Manual, which states that adjustment disorders "are generally treatable and not usually grounds for separation," but that members with adjustment disorders may be administratively discharged "when these conditions persist or treatment is likely to be prolonged or non-curative (e.g. inability to adjust to military life ...)."

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

The SPD Handbook includes the following combinations of codes and narrative reasons for separation, which might apply to the applicant's case:

SPD Code	Narrative Reason for Separation	RE Code	Separation Authority	Explanation
JFX	Personality Disorder	RE-4 or RE-3G	12.B.16	Involuntarily discharge [by direction] when a personality disorder exists, not amounting to a disability, which potentially interferes with assignment to or performance of duty.
JFV	Condition, Not a Disability	RE-4 or RE-3G	12.B.12	Involuntarily discharge [by direction] when a condition, not a physical disability, interferes with the performance of duty (Enuresis, motion

				sickness, allergy, obesity, fear of flying, et al.)
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Under Article 12.B.4. of the Personnel Manual, a member's commanding officer has authority to decide which of the permissible RE codes listed in the SPD Handbook is assigned to the member.

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 in this case pursuant to section 1552 of title 10 of the United States Code. The application was timely. An applicant has fifteen years from the date of discharge to apply to the DRB for an upgrade of her discharge. The applicant applied to the DRB approximately four years after her discharge, and the DRB issued a final decision on April 6, 2004. Pursuant to 33 CFR § 52.13, the applicant was required to exhaust her administrative remedies by applying to the DRB. According to *Ortiz v. Secretary of Defense*, 41 F3rd. 738 (D.C. Cir. 1994), the BCMR's three year statute of limitations begins to run at the conclusion of DRB proceedings for an applicant who is required to exhaust administrative remedies by applying to the DRB before seeking redress from the BCMR. Therefore, the applicant's BCMR application, received by the Board on September 22, 2004, was timely.

2. The Board notes that the applicant is not contesting her discharge from the Coast Guard; she is only seeking a change in her reenlistment code so she may be allowed to reenlist. The applicant's DD 214 indicates that she was discharged because of a personality disorder and given an RE-4 reenlistment code. However, the record indicates and the Coast Guard admits that the applicant was never diagnosed with a personality disorder. As the Coast Guard stated, "Condition, Not a Disability" would be more appropriate in this case because the applicant was discharged due to an adjustment disorder, not a personality disorder. The separation code for "Condition, Not a Disability" is JFV, not JFX.

3. The SPD Handbook permits an RE-3G reenlistment code as well as an RE-4 for a discharge resulting from an adjustment disorder characterized as a "Condition, Not a Disability." The RE-4 code is a permanent bar to reenlistment, but an RE-3G would require the applicant to satisfy a recruiting command that she no longer suffers from her adjustment disorder before she would be allowed to reenlist. Adjustment disorders are not permanent according to the DSM, and the evidence submitted by the applicant indicates that she has been able to

maintain steady employment. Therefore, the Board agrees with the Coast Guard that the applicant's RE code should be upgraded to RE-3G.

4. The JAG and CGPC recommended that the applicant's DD 214 be corrected to cure these inaccuracies. The Board agrees. Given the applicant's diagnosed adjustment disorder and the provisions of the SPD Handbook, the Coast Guard should have assigned her the JFV separation code for having a condition that precludes military service but does not amount to a physical disability. The applicant was diagnosed with an adjustment disorder and her CO recommended her discharge pursuant to Article 12.B.12.a. of the Personnel manual, but her DD 214 indicates that she was discharged because she had a "Personality Disorder." This error, in turn, caused her DD 214 to reflect an incorrect separation authority, and narrative reason for separation. The article of the Personnel Manual that authorizes the separation of a member with a condition that is not a disability, is Article 12.B.12, rather than 12.B.16.

5. In light the applicant's diagnosis and the JAG's recommendation, the Board finds that it would be in the interest of justice to correct the applicant's separation code to JFV, correct her narrative reason for separation to "Condition, Not a Disability," and correct the separation authority shown on her DD 214 to Article 12.B.12. of the Personnel Manual. In addition, her reenlistment code should be corrected to RE-3G.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of former XXXXXXXXXXXXXXXXXXXXXXXXXX, USCG, for correction of her military record is granted as follows:

Block 25 shall be corrected to show Article 12.B.12. of the Personnel Manual as the separation authority.

Block 26 shall be corrected to show JFV as the separation code.

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

Block 28 shall be corrected to show "Condition, Not a Disability" as the narrative reason for separation.

The Coast Guard shall issue the applicant a new DD 214 reflecting these corrected entries.

