

**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. 2007-221**

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**FINAL DECISION**

This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case on September 26, 2007, upon receipt of the completed application, and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated June 12, 2008, 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, who was discharged from the Coast Guard on September 14, 2001, asked the Board to correct his record by upgrading his reenlistment code from RE-3G (ineligible to reenlist without a waiver) to RE-1 (eligible to reenlist). He alleged that the claustrophobia that caused him to be discharged was a “freak, one-time occurrence” that has not happened again. The applicant alleged that he currently works in an office, rides the train to work, and takes elevators everyday without a problem. The applicant stated that he currently serves as a Coast Guard auxiliari<sup>1</sup> but wants to serve on active duty again.

**SUMMARY OF THE RECORD**

On January 23, 2001, the applicant enlisted in the Coast Guard at age 20. Upon completing basic training and telecommunications specialist “A” School, he was assigned to a cutter and reported for duty on July 29, 2001. The next day, July 30, 2001, a chief health services specialist, HSC, noted in the applicant’s medical record that the applicant was anxious and said that he could not stay on the cutter because he felt “closed in. It freaks me out.” The applicant had slept

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<sup>1</sup> The Coast Guard Auxiliary was established in by Congress in 1939 as a group of volunteer civilians who are authorized to wear a uniform similar to the Coast Guard officer's uniform. The Auxiliary’s missions include public education in boat handling, navigation, and marine safety and assisting active duty and reserve members in rescue missions, environmental protection, and patrolling regattas and other marine events.

in his car the night before to avoid sleeping on the cutter. The command referred the applicant to a Naval Hospital for psychiatric evaluation. On August 1, 2001, the applicant provided the following history of his symptoms, as reported by a psychiatric technician:

[The applicant] first experienc[ed] his symptoms at boot camp during a fire-fighting exercise in which he had to be in full gear and the oxygen breathing apparatus (OBA) for 30 minutes. Although he was able to get through the entire exercise, the whole time he felt that he was ready to “snap” and probably could have only last another five minutes. Shortly after boot camp while he was on leave he started to have anxiety and feelings of tension when in elevators and crowded areas. [He] stated that he went to his “A” School after leave and didn’t notice this problem occurring, however stated that he avoided most crowded and cramped areas during this time. [He] stated that he took leave between his “A” School and reporting to the [cutter] and he noticed the anxiety again when he was in crowded areas and on elevators “with a lot of people or if I had to be away from the door.” The SN reported that he arrived to his new duty station on the 29<sup>th</sup> of July and that when they were giving him a tour of the boat, he started becoming more and more nervous. [He] reported that after two hours of being on board he had to leave because he was experiencing an anxiety attack. [He] stated that he returned to the ship later to see if he could handle being on board again. [He] almost immediately started having the same feeling and just left the boat. [He] called his chief from off the boat and told him what happened and then proceeded to sleep in his car that night.

Also on August 1, 2001, a staff psychiatrist at the Naval Hospital reported that the applicant

presented with a 3-4 month complaint of anxiety and panic symptoms within enclosed spaces and situations in which escape might be difficult. This was noted to be profound once aboard ship, particularly in the berthing spaces. His medical record reveals documented elevations in blood pressure and pulse during an anxiety attack aboard ship. The patient does not experience symptoms outside of this specific circumstance. His symptoms have resulted in occupation limitations and poor motivation for continued service. He endorses some neurovegetative symptoms over the last three days since reporting to Seattle in response to the profound anxiety that he has experienced. He denies any other symptoms suggestive of depressive, anxiety, or psychotic disorders.

The psychiatrist diagnosed the applicant with “Specific Phobia, situational type (claustrophobia – fear of enclosed spaces).”<sup>2</sup> He concluded that the applicant was fit for duty but had a “condition which is not amenable to continued service” and should not be assigned to work on a ship or in enclosed spaces. The psychiatrist recommended that the applicant be administratively discharged because of his “mental condition,” which was not a disability but rendered him “incapable of serving adequately in the U.S. Coast Guard.”

On September 14, 2001, the applicant was honorably discharged with an RE-4 reenlistment code (ineligible); a JFX separation code (involuntary discharge due to diagnosed “personal-

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<sup>2</sup> A “specific phobia” is a “marked and persistent fear of clearly discernible, circumscribed objects or situations.” American Psychiatric Association, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (2000) (DSM-IV-TR), p. 443. “Specific phobia” is listed in the DSM-IV-TR as a type of anxiety disorder and is not listed with the personality disorders. The subtypes of specific phobias include animal, natural environment (such as storms, heights, or water), blood-injection-injury, situational, and other. *Id.* at 445. The situational type of specific phobia is fear “cued by a specific situation, such as public transportation, tunnels, bridges, elevators, flying, driving, or enclosed spaces.” *Id.* The Coast Guard relies on the DSM when diagnosing members with psychiatric conditions. *See* Coast Guard Medical Manual (COMDTINST M6000.1B), Chap. 5.B.1.

ity disorder”<sup>3</sup>); and “unsuitability” as his narrative reason for separation on his discharge form DD 214.

On January 30, 2002, the applicant submitted an application to the Discharge Review Board (DRB), asking for the RE-4 code, the JFX separation code, and the narrative reason—“unsuitability”—to be removed from his DD 214. He asked that his narrative reason for separation be changed to “honorable.” On March 27, 2003, after reviewing the record, the DRB concluded that the applicant was not suitable for service in the Coast Guard but might be able to serve in another Service under circumstances where claustrophobia is not an issue. Therefore, the DRB recommended that his reenlistment code be upgraded to RE-3G. The DRB also voted to change his narrative reason to “Personality Disorder vice Unsuitability per the Separation Program Designator Handbook.” On September 5, 2003, the Commandant approved the recommendations of the DRB, and the corrections were made to the DD 214 by issuance of a DD 215.

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

On February 19, 2008, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant partial relief by correcting the applicant’s narrative reason for discharge from “Personality Disorder” back to “Unsuitability.” The JAG stated that the change made by the DRB in 2003 is inconsistent with Coast Guard policy because under COMDTINST M1900.4D, the manual for preparing DD 214s, the narrative reason on a DD 214 is supposed to be general, such as “Unsuitability” or “Misconduct,” and should not provide additional information. The JAG noted that the phrase “Personality Disorder” may be perceived as derogatory and so recommended that the Board order the Coast Guard to issue the applicant a new DD 214 with “Unsuitability” as the narrative reason for separation. The JAG did not recommend upgrading the applicant’s reenlistment code to RE-1.

The JAG submitted as part of the advisory opinion a memorandum on the case prepared by CGPC. CGPC stated that members discharged for unsuitability may not receive RE-1 codes and that the RE-3G code is the most favorable reenlistment code authorized for members discharged because of personality disorders.

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

On February 20, 2008, the Chair sent the applicant the views of the Coast Guard and invited him to respond in writing within thirty days. No response was received.

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<sup>3</sup> A “personality disorder” is “an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual’s culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.” DSM-IV-TR, p. 685. Types of personality disorders include paranoid, schizoid, schizotypal, antisocial, borderline, histrionic, narcissistic, avoidant, dependent, and obsessive-compulsive. *Id.* “Specific phobia” is not listed as a type of personality disorder and is instead listed as a type of anxiety disorder in the DSM-IV-TR. *Id.* at 443. “The diagnosis of Personality Disorders requires an evaluation of the individual’s long-term patterns of functioning . . . . The personality traits that define these disorders must also be distinguished from characteristics that emerge in response to specific situational stressors or more transient mental states . . . . The clinician should assess the stability of personality traits over time and across different situations.” *Id.* at 686.

## APPLICABLE LAW

Chapter 5.B.11.a.5. of the Medical Manual indicates that “specific phobia” is a type of “panic disorder,” which is a subgroup of “anxiety disorders,” and may be grounds for administrative separation under Article 12.B. of the Personnel Manual. No part of Article 12.B., however, expressly mentions phobias.

Article 12.B.12. of the Personnel Manual authorizes enlisted personnel who have a condition that is not a disability but that interferes with the performance of duty to be discharged for the convenience of the Government. Reasons for discharge listed under Article 12.B.12. include conditions such as obesity, motion sickness, enuresis (bedwetting), and somnambulism (sleep-walking).

Article 12.B.16. of the Personnel Manual authorizes enlisted personnel with diagnosed personality disorders that are listed in Chapter 5 of the Medical Manual to be discharged by reason of unsuitability at the direction of the Commandant. Chapter 5.B.2 of the Medical Manual lists personality disorders that qualify a member for administrative discharge pursuant to Article 12.B.16. of the Personnel Manual. No anxiety disorder, panic disorder, or specific phobia is included among the personality disorders listed in Chapter 5.B.2.

Article 1.E. of COMDTINST M1900.4D, the manual for completing DD 214s, states the following:

Block 26. Separation Code. Enter the appropriate separation code (SPD) associated with a particular authority and reason for separation as shown in the SPD Handbook or as stated by the MPC-SEP in the message granting discharge authority.

Block 27. Reenlistment Code.

1. Enlisted Personnel. Enter the appropriate reenlistment code to denote whether or not the member is recommended for reenlistment. Use only the proper reenlistment code associated with a particular SPD Code as shown in the SPD Handbook....

Block 28. Narrative Reason for Separation. Only the narrative reason, i.e. UNSUITABILITY, MISCONDUCT, etc. is to be entered--do not enter additional information, i.e. "Due to frequent involvement with civil authorities, financial irresponsibility, etc."

The SPD Handbook includes the following combinations of codes 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 discharged [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 discharged [by direction] when a condition, not a physical disability, interferes with the performance of duty (Enuresis, motion sickness, allergy, obesity, <b>fear of flying</b> , et al.)

## 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 10 U.S.C. § 1552.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error in his record.<sup>4</sup> However, an application is also timely if submitted within three years of the decision of the DRB.<sup>5</sup> The applicant submitted his application six years after his discharge and four years after the decision of the DRB in his case. Therefore, his application was untimely.
3. Pursuant to 10 U.S.C. § 1552(b), the Board may excuse the untimeliness of an application if it is in the interest of justice to do so. In *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992), the court stated that to determine whether the interest of justice supports a waiver of the statute of limitations, the Board “should analyze both the reasons for the delay and the potential merits of the claim based on a cursory review.”<sup>6</sup> The court further instructed 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>7</sup>
4. The applicant argued that it is in the interest of justice for the Board to waive the statute of limitations because he is a member of the Coast Guard auxiliary and wants to enlist on active duty. This argument and the reason for the applicant’s delay are unpersuasive. However, the delay was not excessive, and a cursory review of the merits of this case indicates that the Coast Guard has admitted that the narrative reason for discharge on the applicant’s DD 214 is erroneous and prejudicial because of a change made by the DRB. Therefore, the Board finds that it is in the interest of justice to waive the statute of limitations in this case.
5. The applicant asked the Board to upgrade his RE-3G code to RE-1 so that he may reenlist on active duty without receiving a waiver. He alleged that he no longer feels anxiety in enclosed spaces, such as train cars and elevators. However, he submitted no evidence to support his allegation that he can comfortably tolerate enclosed spaces in stressful situations, as almost every military member must be able to do, whether in a tank, a plane, or a ship. Therefore, the Board is not persuaded that the applicant’s reenlistment code should be upgraded to RE-1, which would allow him to reenlist on active duty without proving to a recruiter that he can tolerate enclosed spaces in stressful situations.
6. The Coast Guard reviewed the applicant’s DD 214 and noted that the change made by the DRB to his narrative reason for separation in 2003 is not only contrary to policy but also unnecessarily derogatory. The Coast Guard argued that under Article 1.E. of COMDTINST

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<sup>4</sup> 10 U.S.C. § 1552(b).

<sup>5</sup> *Ortiz v. Sec’y of Defense*, 41 F.3d 738, 743 (D.C. Cir. 1994).

<sup>6</sup> *See also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

<sup>7</sup> *Allen v. Card*, 799 F. Supp. 158, 164-5 (D.D.C. 1992). *See also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

M1900.4D, the applicant's narrative reason for separation should be the more general category "Unsuitability" rather than the more specific "Personality Disorder" shown in the SPD Handbook. The Board agrees with the Coast Guard that the regulation authorizes the use of the more general category of discharge "Unsuitability," rather than the specific subcategory "Personality Disorder" when a member has actually been diagnosed with a personality disorder.

7. The Board's review of the record, however, reveals a more significant error in this regard. The applicant was discharged because he was diagnosed with "Specific Phobia, situational type (claustrophobia – fear of enclosed spaces)." However, the separation authority, separation code, and narrative reason for separation shown his DD 214 indicate that he was discharged because of a diagnosed personality disorder. Neither the Coast Guard Medical Manual nor the DSM (which the Coast Guard relies on to diagnose psychiatric conditions)<sup>8</sup> lists a specific phobia or claustrophobia as a personality disorder. Instead, the Medical Manual and the DSM classify such phobias as anxiety disorders or panic disorders, which are not personality disorders.<sup>9</sup> Because the applicant was never diagnosed with a personality disorder, the Board finds that the narrative reason for separation (either "Unsuitability" or "Personality Disorder"); separation code (JFX, which denotes an involuntary discharge because of a diagnosed personality disorder); and separation authority (Article 12.B.16. of the Personnel Manual) shown on his DD 214 and DD 215 are erroneous, unjust, and unduly prejudicial.<sup>10</sup>

8. Members diagnosed with specific phobias may be administratively separated under Article 12.B. of the Personnel Manual when the phobias interfere with the members' performance of duty.<sup>11</sup> The applicant's specific phobia clearly interfered with his duty in the Coast Guard because it stopped him from serving on a cutter, as all members must be able to do. Article 12.B.16. of the Personnel Manual, which is the separation authority for "Unsuitability" discharges and is cited on the applicant's DD 214, authorizes the administrative separation of members diagnosed with a personality disorder, but the applicant was never diagnosed with a personality disorder. Article 12.B.12., on the other hand, authorizes the administrative separation of members who have certain conditions that are not disabilities but that interfere with their performance of duty. The SPD Handbook even includes one situational phobia—fear of flying—as an example of the type of condition that may result in a discharge for "Condition, Not a Disability" under Article 12.B.12. of the Personnel Manual.

9. Although the applicant did not ask this Board to correct his separation code and narrative reason for separation, he did ask the DRB to remove the JFX and "Unsuitability" from his record and got the worse notation of "Personality Disorder" for his efforts. In addition, the Coast Guard has had two opportunities to review the DD 214 and reconsider the denotation of his discharge. Therefore and in light of the clear and prejudicial errors on the DD 214, the Board finds that it should be corrected to show that the applicant was discharged for a "Condition, Not

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<sup>8</sup> Coast Guard Medical Manual, Chap. 5.B.1.

<sup>9</sup> Coast Guard Medical Manual, Chaps. 5.B.2., 5.B.11.a.5.; DSM-IV-TR, pp. 443, 685.

<sup>10</sup> In light of the highly prejudicial nature of a discharge by reason of "personality disorder," the Board has often ordered the Coast Guard to correct the narrative reason on a DD 214 to "condition, not a disability" or some other less prejudicial reason when the diagnosis of personality disorder was absent, uncertain, or not supported by inappropriate behavior. *See, e.g.*, BCMR Docket Nos. 2005-082, 2005-045, 2004-044, and 2003-015.

<sup>11</sup> Coast Guard Medical Manual, Chap. 5.B.11.a.5.

a Disability,” under Article 12.B.12. of the Personnel Manual, with the corresponding JFV separation code and RE-3G reenlistment code.

10. Accordingly, the applicant’s request for an RE-1 code should be denied, but his DD 214 should be corrected to show “Condition, Not a Disability” as the narrative reason for separation, JFV as the separation code, an RE-3G reenlistment code, and Article 12.B.12. of the Personnel Manual as the separation authority. Moreover, these corrections should be made on a newly issued DD 214, rather than by means of a DD 215, so that the incorrect, prejudicial information suggesting that he has a personality disorder need not be seen by the applicant’s future employers.

**[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]**

