



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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-181

 E-1 (former)

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. After receiving the applicant's completed application on July 8, 2014, the Chair docketed the case and assigned it to  to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated April 9, 2015, 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 received an uncharacterized discharge from basic training on August 10, 2007, after only 18 days in the Service, asked the Board to correct his Certificate of Release or Discharge from Active Duty, Form (DD-214) by upgrading his reenlistment code from RE-3L (entry level separation, must have waiver to reenlist) to RE-1 (eligible for reenlistment).¹ The applicant attached his DD-214 to his application to the Board. The DD-214 listed the applicant's character of service as "uncharacterized," a separation code of "JGA,"² and the narrative reason for separation listed as "Entry Level Separation." Attached to the applicant's DD-214 was a memorandum dated August 9, 2007, which states that the applicant's discharge from the Coast Guard does not permanently preclude him from reentering any branch of the U.S. Military and "should not be given a negative or unfavorable consideration when assessing the member for potential employment."

The applicant alleged that the reentry code on his DD-214 is unjust because the statement indicating that his discharge does not permanently preclude him from joining the military is false, and in actuality, he is not able to reenter the military with a RE-3 separation code. The

¹ The Coast Guard uses four reenlistment/reentry codes: RE-1 (eligible to reenlist); RE-2 (retired); RE-3 (eligible to reenlist with waiver); and RE-4 (not eligible to reenlist). Up until 2009, letters were added to RE-3 codes to indicate the reason a waiver would be needed to reenlist.

² The Separation Program Designator (SPD) Handbook defines the JGA separation code as an "involuntary discharge directed by established directive when member has inability, lack of effort, failure to adapt to military or minor disciplinary infractions during the first 180 days of active military service."

applicant stated that his separation was due to him not “being ready for what was ahead,” and he believes that he is now better prepared to pursue a career in the military. The applicant stated that he also went to a psychologist who conducted a mental/military health readiness exam, and that the psychologist stated that the applicant was “more than ready to live [his] dream.” The applicant stated that he submitted an application to the Discharge Review Board (DRB) after he discovered the alleged error in August 2011, when he felt ready to reenlist, but the DRB subsequently denied his request for relief. The applicant stated that this application to the Board is his “final hope.”

The applicant included a memo dated August 9, 2007, which was attached to his DD-214, which states the following:

This statement accompanies the Discharge Certificate, DD Form 214, issued by the U.S. Coast Guard. The member who is the subject of this DD Form 214 was awarded an Uncharacterized discharge. This type of discharge is issued to U.S. Coast Guard members who were separated within their first 180 days of active military service due to not completing a probationary period with the Coast Guard. This discharge was deemed in the best interest of both the U.S. Coast Guard and the member. This discharge does not permanently preclude the member from reentering any branch of the U.S. Military.

This Uncharacterized discharge should not be given a negative or unfavorable consideration when assessing the member for potential employment.

The applicant also included in his application a letter dated September 5, 2011, regarding his Mental/Military Readiness Exam. The letter specifically states the following:

[The applicant] was evaluated at this office on August 31, 2011. He was found to be bright and motivated. A self-starter who began working at 13 to help support himself and his two younger siblings. By 15, he was working 2 full time jobs and finishing High School on Virtual Online.

[The applicant] is interested in joining the Reserves and then make a decision about whether or not to make the Navy his career. He states he has always wanted to be in the Military. He did sign up, and go for BC, but he was 19 at the time and 2 years into the relationship with his now current fiancée and mother of his 8 month old son. The more he talked to her on the phone, the more homesick he became. He simply was not ready.

[The applicant] is very stable. With the same woman 6 years; the same job for the last three. Close relationships and strong support within both family and the work environment. This young man is interested in both professional and personal growth and further education opportunities.

[The applicant] is an excellent choice for the Military and will prove himself to be an asset to whatever branch he joins and his country.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard Reserve on July 24, 2007, at age 19, and began recruit training. On August 10, 2007, the applicant was issued a Page 7 stating that he had been discharged from active duty without immediate reenlistment by reason of *Entry Level Separation*. The Page 7 also stated that the applicant was issued an “Uncharacterized Discharge

for Entry Level Performance and Conduct due to Adjustment Disorder with Anxiety.”³ The applicant signed the Page 7 acknowledging that he had read and had been counseled on the contents of Article 12-B-53 of the Personnel Manual regarding his rights on separation from the Coast Guard. He further acknowledged that he fully understood his rights and had all of his questions answered.

VIEWS OF THE COAST GUARD

On October 22, 2014, the Judge Advocate General (JAG) submitted an advisory opinion recommending that the Board deny relief in this case in accordance with the findings and analysis provided in a memorandum submitted by the Commanding Officer, Coast Guard Personnel Service Center (PSC). PSC provided the following supplementary comments:

PSC argued that the applicant was incorrect in his assertion that the reenlistment code he received upon discharge is preventing his reentry into military service. PSC stated that according to Coast Guard policy, the only reenlistment code that makes an applicant ineligible for reenlistment is a reenlistment code of RE-4. A reenlistment code of RE-3 would only prevent future military service where an applicant still has a disqualifying factor.

PSC stated that the separation code of “JGA,” which the applicant received on his DD-214, is defined in the Separation Program Designator Handbook as “involuntary discharge directed by established directive when a member has inability, lack of effort, failure to adapt to military or minor disciplinary infractions during the first 180 days of active military service.” PSC also noted that the reentry code of “RE-3L” is defined as an “entry level separation” which requires a waiver to reenlist, and that the RE-3 codes classify a discharged member as “eligible for reenlistment except for a disqualifying factor.” Members who receive an RE-3 reenlistment code upon their discharge are required to obtain approval from the Recruiting Command to be reenlisted.

PSC contended that the document attached to the applicant’s DD-214 was accurate in stating that the applicant’s discharge does not permanently preclude him from reentering any branch of the U.S. military. PSC also stated that the applicant failed to mention any previous attempts or denials to reenter military service or to obtain a waiver allowing him to reenlist. PSC confirmed that upon the applicant’s desire to apply for reenlistment, he could apply for a waiver (if eligible) for reentry into the service.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 30, 2014, the Chair of the BCMR sent the applicant a copy of the Coast Guard’s views and invited him to submit a written response within thirty days. The BCMR did not receive a response.

³ An “adjustment disorder” is a psychological response to an identifiable stressor that results in the development of emotional or behavioral symptoms. Adjustment disorders are normally temporary and disappear when the stressors disappear. Adjustment disorders are not personality disorders. American Psychiatric Association, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (2000) (DSM-IV-TR), p. 679.

APPLICABLE LAW AND POLICY

Personnel Manual, COMDTINST M1000.6A (Changes 1-41 / June 2007)

Article 12.B.20. of the Personnel Manual in effect at the time of the applicant's discharge defines and provides guidance for Uncharacterized Discharges. The article specifically states that uncharacterized discharges are authorized for all members separated at the entry level (on or after 15 June 1983) who:

- a. Have fewer than 180 days of active service on discharge, and
- b. Demonstrate poor proficiency, conduct, aptitude or unsuitability for further service during the period from enlistment through recruit training, or
- c. Exhibit minor pre-existing medical issues not of a disabling nature which do not meet the medical/physical procurement standards in place for entry into the Service.

The article further states that “[a]n uncharacterized discharge is used for most recruit separations, except for disability, prior service members entering recruit training, or in cases when another type of discharge may be appropriate as described in Article 12.B.16. for recruits with serious infractions.” Under this article, a member will not receive discharge certificate, and will only be issued a DD-214.

Separation Program Designator (SPD) Handbook

The SPD Handbook, an enclosure to the manual for preparing DD 214s, COMDTINST M1900.4D, provides the combinations of codes and separation authorities that may be entered on a DD 214. The handbook defines the JGA separation code as an “involuntary discharge directed by established directive when member has inability, lack of effort, failure to adapt to military or minor disciplinary infractions during the first 180 days of active military service.” The correct reentry code under this separation code is RE-3L. The SPD Handbook further defines the RE-3L reentry code as “entry-level separation must have waiver to reenlist.”

Coast Guard Medical Manual, COMDTINST M6000.1C

Chapter 5.B.3. of the Medical Manual provides that when a member is diagnosed with an adjustment disorder, such as “inability to adjust to military life/sea duty, separation from family/friends,” the member may be processed for separation under Article 12 of the Personnel Manual.

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 submission, 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 or injustice in his record.⁴ Although the applicant in this case filed his application more than three years after he received his DD-214 with the RE-3L reentry code, he filed it within three years of the decision of the DRB, which has a fifteen-year statute of limitations. Therefore, the application is considered timely.⁵

3. The applicant asked the Board to upgrade his reenlistment code from RE-3L to RE-1. The applicant stated that the RE-3L reenlistment code he received upon discharge is unjust because it is preventing him from reenlisting in a military service. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁶ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."⁷

4. A Page 7 and the applicant's DD 214 show that he was discharged from recruit training because of a diagnosed adjustment disorder just 18 days after he enlisted. Therefore, his Uncharacterized discharge and RE-3L reentry code are correct in accordance with Chapter 5.B.3. of the Medical Manual, Article 12.B.20. of the Personnel Manual, and the SPD Handbook. In addition, the applicant is mistaken in his belief that his RE-3L is a permanent bar to reenlisting in the military. Under the SPD Handbook, all RE-3 codes mean that the veteran is eligible to reenlist, except for the disqualifying factor that caused the veteran's discharge, and so requires a waiver to reenlist. Whether to grant the waiver is within the discretion of each military service's recruiting command. Because the applicant has not shown that he did not, in fact, suffer from an adjustment disorder during his 18 days at the training center, the Board finds that his RE-3L reentry code is not erroneous.

5. The applicant argued that the RE-3L is unjust because it is preventing him from reenlisting in a military service. The Board notes that when the supply of potential military recruits greatly exceeds the demand, recruiting commands may have little if any incentive to grant waivers to veterans with RE-3 codes. The applicant did not submit documentation showing that he has been refused a waiver, however. Assuming *arguendo* that he has been denied a waiver by a military recruiter, the Board notes that he would need to persuade a recruiter that the problem that caused his discharge in 2007 no longer exists, and the psychologist's letter shows only that the psychologist concluded, based on what the applicant told him, that the applicant is ready to reenter the military. Aside from the psychologist's letter, the applicant has submitted nothing to show how he has spent the past seven years.

6. The preponderance of the evidence before the Board shows that the applicant's RE-3L is correct and that it is not unjust to require him to receive a waiver from a military

⁴ 10 U.S.C. § 1552(b).

⁵ *Ortiz v. Secretary of Defense*, 41 F.3d 738, 743 (D.C. Cir. 1994).

⁶ 33 C.F.R. § 52.24(b).

⁷ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

recruiting command before reenlisting. His discharge is Uncharacterized, and he was issued a memorandum specifically stating that his discharge does not permanently preclude him from reentering any branch of the U.S. military and should not be viewed in a negative or unfavorable light when he is being considered for potential employment.

7. The applicant has not proven by a preponderance of the evidence that his RE-3L reentry code is erroneous or unjust. Therefore, his request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former SR [REDACTED], USCG, for correction of his military record is denied.

April 9, 2015

