

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2016-159



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 Chair docketed the case after receiving the completed application on June 29, 2016,¹ and assigned it to staff attorney [REDACTED] to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated May 12, 2017, 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, a former seaman discharged after 18 days in recruit training on June 10, 2011, asked the Board to correct his military record by changing his reentry code on his DD Form 214 from RE-3G to RE-1. An RE-3G denotes that a member was discharged for a medical condition interfering with his performance of duty, but not a physical disability, and the member may reenlist with a waiver from the Recruiting Command, while an RE-1 denotes that the member is eligible for reenlistment.² The applicant states that he was given the RE-3G for motion sickness during his initial training. However, he had chronic tonsillitis and he required a tonsillectomy and adenoidectomy. He therefore alleged that the RE-3G code is an injustice because he should have been awarded an RE-1 reentry code.

SUMMARY OF THE RECORD

On June 6, 2011, the applicant was seen by medical staff at training. The Chronological Record of Service states:

RECRUIT DISCHARGE SUMMARY SHEET

¹ The applicant's initial application was received on October 12, 2012. The applicant submitted another, largely identical, application that was received on January 3, 2013. This case was not docketed until June 29, 2016, however, due to a delay in obtaining the applicant's military and medical records.

² COMDTINST M1900.4D, Chapter 2.

DISQUALIFYING DIAGNOSIS: Pathological condition/abdominal pain, undiagnosed
This evaluee does not meet the minimum standards for enlistment and retention in the USCG...

PROGNOSIS FOR FURTHER MILITARY SERVICE: Fair

[The applicant] presented to sick call on Monday morning, June 6, 2011 with a complaint of abdominal pain. He is a week 3 recruit. He reports 3 weeks of abdominal pain, disclosing that it was present prior to arriving at boot camp and has been intermittent and undiagnosed for years. He also had an active tonsillitis at presentation to boot camp which he concealed and had been given a course of steroids which he completed just prior to arrival. He describes the pain as largely left upper quadrant, burning, worse after eating spicy foods, worse at night. He has treated it in the past by drinking milk when it is at its worst. He rates it as a 6.5/10. He also states that his tonsils are still sore and that he is still experiencing significant grief since the death of his mother 1 month ago from MS. It is my opinion that his chronic intermittent abdominal pain is likely GERD or similar, but that he requires evaluation and management prior to re-applying to the Coast Guard as it significantly interferes with the performance of his duties.

Also on June 6, 2011, a memorandum was prepared with the subject "RECRUIT MEDICAL DISPOSITION" for the applicant. The memorandum states:

[The applicant] is disqualified for continued service in the U.S. Coast Guard due to the following condition(s): **PATHOLOGICAL CONDITION:** Abdominal pain ... The Medical/Dental Officer's recommendation is: Process of discharge.

I have read and understand the above information. I've had an opportunity to ask questions that pertain to my condition(s) to the HS that counseled me.

[/s/ the applicant]

On June 10, 2011, the applicant was discharged from the Coast Guard. He received a DD-214 which states that he entered active duty on May 24, 2011, and that he spent 18 days on active duty. The Character of Service is "Uncharacterized (Cape May only)" and the Narrative Reason for Separation is "Failed medical/physical procurement standards." The reentry code is RE-3G.

Accompanying the DD 214 in the applicant's military record is a letter from the training camp which states:

This statement accompanies the Discharge Certificate, DD Form 214, issued by the U.S. Coast Guard. The member who is 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 submitted a letter from an ear, nose, and throat doctor dated October 17, 2011, which states:

This is a letter regarding [the applicant]. He has a history of chronic persistent tonsillitis. For that reason he had an adenotonsillectomy on October 4, 2011. As of October 18, 2011 [the applicant] is released for active duty from an ENT standpoint, being postop two weeks from adenotonsillectomy.

VIEWS OF THE COAST GUARD

On December 9, 2016, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the case prepared by PSC. PSC recommended that the Board deny relief in this case. PSC argued that an uncharacterized discharge was authorized per COMDTINST M1000.6A because the applicant had fewer than 180 days of active service and because he had a minor pre-existing medical issue that was not of a disabling nature. Additionally, per COMDTINST M1900.4D, an RE-3 reenlistment code is given to members who are eligible for reenlistment except for a disqualifying factor, and the RE-3G code is specifically given to members who were separated due to a physical condition interfering with his performance of duty.

PSC argued that the applicant has not proven by a preponderance of the evidence that his discharge with an RE-3G reenlistment code was erroneous or unjust. PSC stated that the applicant was medically evaluated and determined to be unfit for further service due to a condition that was not considered to be a physical disability. The applicant was then appropriately processed for separation in accordance with the Personnel Manual, COMDTINST M1000.6A. PSC argued that the applicant's discharge does not qualify for an RE-1 reenlistment code, and therefore recommended that no relief be granted.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On December 13, 2016, the Chair sent the applicant a copy of the Coast Guard's advisory opinion and invited a response within 30 days. No response was received.

APPLICABLE REGULATIONS

According to the Release from Active Duty, DD Form 214 instructions, COMDTINST M1900.4D, Chapter 2 states that an RE-1 denotes "Eligible for Reenlistment." It further states that an RE-3G denotes "Condition (not physical disability) interfering with performance of duty."

According to the Personnel Manual, COMDTINST M1000.6A, Article 12.b.20.a., an uncharacterized discharge is authorized for all members separated at entry level on or after June 15, 1983 who "have fewer than 180 days of active service on discharge, and...exhibit minor pre-existing medical issues not of disabling nature which do not meet the medical/physical procurement standards in place for entry into the Service." This article further states that an 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...for recruits with serious infractions."

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, or reasonably should have discovered, the alleged error or injustice.³ While the application was not docketed until June 29, 2016, the application was timely filed less than two years after the alleged error or injustice.

3. The applicant claimed that the Coast Guard committed an injustice in assigning him an RE-3G reentry code as opposed to an RE-1 reentry code upon his discharge. 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.⁴ 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."⁵

4. According to the Release from Active Duty, DD Form 214 instructions, an RE-3G reentry code is assigned to members who have a medical condition that interferes with their ability to perform their duties that is not disabling. The record shows that the applicant complained of abdominal pain which he stated had been present since before he arrived at the training camp. It was also determined that he had active tonsillitis "which he concealed" prior to arriving. The applicant was informed via memorandum on June 6, 2011, that he was disqualified for continued service due to abdominal pain, and he was to be processed for discharge. The applicant signed this form, acknowledging his receipt and understanding. The Board finds that the applicant has not proven by a preponderance of the evidence that an injustice exists in his record, and therefore will not upgrade his reentry code from an RE-3G to an RE-1.

5. Accordingly, the applicant's request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

³ 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

⁴ 33 C.F.R. § 52.24(b).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

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

May 12, 2017

