

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2019-163**

  
SR (former)

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**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on June 24, 2019, and assigned the case to the Deputy Chair to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated August 21, 2020, 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 Recruit (SR/E-1) who received an uncharacterized discharge from recruit training on October 8, 1999, asked the Board to correct her record by changing her characterization of service to general "under honorable conditions."

The applicant stated that when she enlisted in the Coast Guard, she intended to serve for her entire contract. However, she argued that she was "forced out" by Coast Guard medical officers while she was at recruit training. She argued that she deserved a general "under honorable conditions" discharge because that is a reflection of how she served.

To support her application, the applicant provided a copy of a letter from the Department of Veterans Affairs (VA) dated May 21, 2019. The letter certified that the applicant served in the Coast Guard from September 20, 1999, to October 8, 1999, and received a general "under honorable conditions" discharge.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on September 20, 1999, and was discharged 19 days later on October 8, 1999, while undergoing recruit training at the USCG Training Center. The applicant was discharged in accordance with 12.B.20 of the Coast Guard Personnel Manual. Her DD-214 shows "uncharacterized" as the characterization of discharge; "entry level separation"

as the narrative reason for separation; RE-3L (entry level separation, must have waiver to reenlist) as her reenlistment code; and JGA (entry level separation – performance, conduct or adaptability deficiencies) as her separation code. The applicant signed her DD-214.

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

On November 13, 2019, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC argued that the application was not timely filed. Regarding the merits of the case, PSC argued that the applicant failed to demonstrate that the Coast Guard committed an error or injustice regarding her characterization of service. PSC stated that the Coast Guard followed policy in assigning the applicant an uncharacterized discharge in accordance with the Coast Guard Personnel Manual.

The JAG argued that changing the applicant’s characterization of service from uncharacterized to general “under honorable conditions” would work to her detriment. The JAG stated that a general “under honorable conditions” discharge is inferior to an uncharacterized discharge. According to the Coast Guard Personnel Manual, a recruit’s characterization of service would have been downgraded from uncharacterized to general “under honorable conditions” only if the recruit had committed a serious infraction. In this case, the JAG stated, there is nothing in the applicant’s record to suggest that she had committed a serious infraction that would warrant downgrading her characterization of service. Further, the JAG noted that the BCMR should not grant a request if it works against the interest of the applicant.

The JAG argued that if the applicant had intended to request an honorable discharge, her request should be also be denied because she failed to allege or prove that the Coast Guard committed an error or injustice. The JAG argued that the Commanding Officer at recruit training had the authority to separate the applicant with an uncharacterized discharge pursuant to Article 12.B.20. of the Personnel Manual then in effect.

Finally, the JAG argued that the applicant did not provide any evidence to support her allegation that she was unfairly “forced out” by Coast Guard medical officers. The JAG argued that even if the applicant was somehow “forced out,” downgrading her characterization of service would not be “an adequate remedy.”

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

On November 18, 2019, the Chair sent the applicant a copy of the Coast Guard’s views and invited her to respond within thirty days. No response was received.

### **APPLICABLE LAW AND POLICY**

Chapter 12.B.20. of the Coast Guard Personnel Manual in effect in 1999 discusses uncharacterized discharges in relevant part:

## 12.B.20.a. Definition

1. 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.
- b. Demonstrate poor proficiency, conduct, aptitude or unsuitability for further service during the period from enlistment through recruit training.

2. 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 as described in Article 12.B.20.d. for recruits with serious infractions.

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## 12.B.20.d. Characterized vs. Uncharacterized Service

The availability of the uncharacterized discharge does not preclude awarding recruits with serious infractions a type of discharge used for characterized service, usually General or Under Other than Honorable Conditions. If other than an uncharacterized discharge is appropriate, send requests to Commander, (CGPC-epm-1) for consideration.

## FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on 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.<sup>1</sup> The record shows that the applicant signed her DD-214 and was discharged on October 8, 1999. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error in her record in 1999, and her application is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>2</sup> In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without "analyz[ing] both the reasons for the delay and the potential merits of the claim based on a cursory review"<sup>3</sup> to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted 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>4</sup> Pursuant to these requirements, the Board finds the following:
  - a. The applicant waited more than 19 years to submit an application to the Board. The applicant provided no explanation for her delay in seeking correction of her DD-214 and no compelling argument that it is in the interest of justice for the Board to excuse her delay.
  - b. A cursory review of the merits of this case shows that the applicant's claim lacks potential merit. After 19 days of service at the recruit training center, the applicant was

<sup>1</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

<sup>2</sup> 10 U.S.C. § 1552(b).

<sup>3</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

<sup>4</sup> *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

discharged from the Coast Guard. According to Chapter 12.B.20. of the Coast Guard Personnel Manual in effect in 1999, an uncharacterized discharge was used for most recruit separations. The exceptions included disability, prior service members entering recruit training, or when a recruit had committed a serious infraction. While the applicant argued that she was “forced out” by Coast Guard medical officers, she has provided no evidence to support this allegation. Further, the Personnel Manual states that a general “under honorable conditions” discharge was only appropriate for recruits who had committed serious infractions. As such, and as noted in the advisory opinion, a general “under honorable conditions” discharge is in fact inferior to an uncharacterized discharge. The applicant’s DD-214 is presumptively correct,<sup>5</sup> and the VA document is insufficient to overcome that presumption.

4. Accordingly, the Board will not excuse the application’s untimeliness or waive the statute of limitations to conduct a thorough review of the merits. The applicant’s request should be denied.

5. While this Board is not aware of any VA benefits that may be available to the applicant, she may send a copy of her DD-214 with a copy of the VA document back to the VA to demonstrate her correct characterization of service.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>5</sup> 33 C.F.R. § 52.24(b); see *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties “correctly, lawfully, and in good faith.”).

**ORDER**

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

August 21, 2020

