

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-164

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 July 8, 2014, and assigned it to staff member [REDACTED] as required by 33 C.F.R. § 52.61(c).

This final decision, dated March 27, 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 was honorably discharged on August 1, 2005, asked the Board to upgrade the narrative reason for discharge shown on his DD-214 from "Personality Disorder"¹ to something that does not reflect a personality disorder; to upgrade his reenlistment code from RE-4 (ineligible to reenlist) to RE-1 (eligible to reenlist); and to upgrade his separation code from JFX, which denotes an involuntary discharge due to personality disorder, to MBK² or another code that does not reflect a personality disorder.

The applicant alleged that on March 30, 2005, he was evaluated for what was believed to be occupational stress. He alleged that his commanding officer (CO) and he both believed he

¹ 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." American Psychiatric Association, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (2000) (DSM-IV-TR), p. 685. Types of personality disorders include paranoid, schizoid, schizotypal, antisocial, borderline, histrionic, narcissistic, avoidant, dependent, and obsessive-compulsive. *Id.* "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. The Coast Guard relies on the DSM when diagnosing members with psychological conditions. See Coast Guard Medical Manual (COMDTINST M6000.1B), Chap. 5.B.1.

² Separation code MBK denotes expiration of term of service. See Separation Program Designator Handbook.

suffered from occupational stress because he was not satisfied with his chosen rate and had already requested a change in rate from Machinery Technician to Storekeeper. The applicant alleged that his dissatisfaction with his rate had manifested in his taking more than the average time generally required to obtain qualifications, and his Commanding Officer had agreed that his strong points and skills were better aligned for the Storekeeper rating. The applicant stated that the psychiatrist's diagnosis of Schizoid³ and Schizotypal Personality Disorder⁴ as a result of the evaluation surprised both him and his CO.

Regarding the psychiatrist's report and diagnosis, the applicant offered several explanations for what might have been viewed as bizarre or abnormal behavior. He stated that his "difficulty interacting with other crewmembers and [preferring] to work alone," as observed by his Commanding Officer, was due to the fact that he was dissatisfied with his job as a Machinery Technician and as a result he failed to meet the expectations of his shipmates, which placed a burden on them to fill the void. The applicant also stated that his deeply held religious beliefs and standards may have caused some people to disassociate with him. However, he stated, several of his shipmates confided in him because they knew he would listen, offer advice, and maintain confidentiality, although these interactions were not witnessed by Command.

The applicant alleged that any statements he made regarding his preference to work alone and any observations made that suggested he did not have a social life or interpersonal interests are due to misunderstandings and wrong assumptions. The applicant explained that having grown up in a military family and living in various locations, he established relationships with fellow students, neighbors, and fellow church members. He stated that he looks at these relationships as "friends along the way" and several of these relationships have become lasting friendships spanning the country. Regular contact is often difficult due to his location at the time. However, he stated, he maintained contact through personal email and occasional phone calls. The applicant further stated that contrary to what the psychiatrist noted as his lack of desire or enjoyment of close relationships, he had proposed marriage to a former high school classmate

³ The essential feature of Schizoid Personality Disorder is a pervasive pattern of detachment from social relationships and a restricted range of expression of emotions in interpersonal settings. This pattern begins by early adulthood and is present in a variety of contexts. Individuals with Schizoid Personality Disorder appear to lack a desire for intimacy, seem indifferent to opportunities to develop close relationships, and do not seem to derive much satisfaction from being part of a family or other social group. They prefer spending time by themselves, rather than being with other people. They often appear to be socially isolated or "loners" and almost always choose solitary activities or hobbies that do not include interaction with others. They prefer mechanical or abstract tasks, such as computer or mathematical games. They may have very little interest in having sexual experiences with another person and take pleasure in few, if any, activities. DSM-IV-TR, at 694-695.

⁴ The essential feature of Schizotypal Personality Disorder is a pervasive pattern of social and interpersonal deficits marked by acute discomfort with, and reduced capacity for, close relationships as well as cognitive or perceptual distortions and eccentricities of behavior. This pattern begins by early adulthood and is present in a variety of contexts. Individuals with Schizotypal Personality Disorder often have ideas of reference (i.e., incorrect interpretations of casual incidents and external events as having a particular and unusual meaning specifically for one person). These should be distinguished from delusions of reference, in which the beliefs are held with delusional conviction. These individuals may be superstitious or preoccupied with paranormal phenomena that are outside the norms of their subculture. They may feel they have special powers to sense events before they happen or to read others thoughts. They may believe they have magical control over others, which can be implemented directly (i.e., believing that their spouse's taking the dog out for a walk is the direct result of thinking an hour earlier it should be done) or indirectly through compliance with magical rituals (e.g., walking past a specific object three times to avoid a certain harmful outcome). DSM-IV-TR, at 697-698.

before his psychiatric evaluation. The applicant acknowledged that “many of his interests, especially the intensity of his interests are frequently misunderstood,” and that this, coupled with the psychiatrist’s evaluative statement, “[The applicant] does tend to become ‘overly’ interested in particular subjects,” is nothing more than a direct observation of what most of society refers to as hobbies.

The applicant further alleged that the psychiatrist’s statement that he had a “decreased” sexual interest is merely a misinterpretation of his religious beliefs, high personal standards, and disgust with society’s crude abuse of human sexuality. The applicant stated that if a female held these standards, she would be commended and he views it as personal integrity. Additionally, in response to the psychiatrist’s assessment that the applicant’s “mood is very limited,” the applicant stated that after he was informed of the purpose of the evaluation, alluding to a more in depth situation than what he previously believed, his mood may have been affected. The applicant further stated that his behavior and demeanor during the evaluation could be best described as “military bearing,” given his military upbringing and the fact that he was being examined by a retired Army Colonel.

In response to the statement that it is “unlikely [the applicant] will successfully adapt to a military lifestyle,” the applicant stated that having grown up in a military family, which was actively involved with unit personnel, and participating in the Naval Sea Cadets, he was more knowledgeable about policy and procedures than the average newly enlisted member. The applicant claimed that serving as Machinery Technician, a job unsuitable for him, versus a job in a support capacity, caused his shortcomings and distorted expectations of his shipmates.

The applicant alleged that a second psychiatric evaluation that he obtained in December 2011 invalidates the Coast Guard’s psychiatric evaluation and proves he does not have a personality disorder.

In support of his allegations, the applicant submitted copies of medical records, related documentation, and several letters from character references which are included in the summary of the record below.

SUMMARY OF THE RECORD

On June 17, 2003, at age 19, the applicant enlisted in the Coast Guard, completed recruit training and “A” School, and was assigned to a boat station. While on active duty, the applicant was treated for various ailments. Only the medical records that concern his mental condition are summarized here.

In an email between chief petty officers at the applicant’s station dated March 11, 2005, with the subject heading, “Issues with MK3 [the applicant],” a BMC reported to an MKC that during training, the applicant, “When peppered he tried to use his supernatural powers to overcome the pain by going to his happy place and mentally overcoming the situation. He used martial arts moves to show his ability to deal with the pain in front of the crew. His actions were not like the others.” The BMC stated he was taken aback when, during a counseling session in engineering, the applicant talked about his life’s experiences as an ordained minister and marriage

counselor and his people management skills from all of the other jobs he has had. The applicant had claimed that he had experienced all that life had to offer and better than most other people. The BMC also stated that the applicant's performance had been on-and-off. One day the applicant knew his job and performed it well and the next day he did not. When asked how his qualifications are coming, the applicant would reply "fine" one day and the next day he did not know what he was doing. The BMC stated that the applicant always had an excuse for everything and was always "out in left field." He noted that the duty section would have more experiences that they could talk about, but he had not witnessed anything else.

In an email from the MKC to the BMC dated March 15, 2005, the MKC noted that the applicant is a capable person, but during a professional development counseling session with him, the applicant made various comments that were, at the very least, far-fetched. The MKC stated, however, that it was the applicant's comments made after the counseling session that were most concerning. According to the MKC, the applicant discussed various types of "brain wave" activities he needed to change and how he had put himself into a "mental shutdown type of meditation" that would last for days to rejuvenate himself. The MKC also stated that in talking with crewmembers about the applicant, most of the crew thought he was "just plain weird." They mentioned to the MKC that the applicant had claimed that he was from another planet, had his own language, and was creating his own world that was made of human waste as big as our (not his) sun. The MKC further noted that when asked about these statements, the applicant replied that everyone else was twisting what he said. However, the applicant was so flat and serious in his demeanor that crewmembers took the statements as the applicant's true beliefs and began to ostracize the applicant.

On March 23, 2005, the applicant was referred for psychiatric evaluation and fitness for duty determination. The Order Request dated March 23, 2005 states that the command and the applicant's coworkers had noted his "peculiar thoughts" and claims of having "special powers and abilities." The provisional diagnosis was that they needed to "R/O [rule out] Personality Disorder, Narcissistic vs. Schizotypal vs. Other."

On March 25, 2005, the applicant was referred to an Ear, Nose and Throat (ENT) Specialist for neck pain. During the examination, the applicant stated his neck only hurt when he yelled, which was when he was on the boats. The applicant admitted to wanting to transfer out of his unit and go to Storekeeper (SK) School. Examination of the applicant's neck and throat revealed no pathology of any kind.

On March 30, 2005, in a memorandum from an Army Medical Center Department of Psychiatry to the applicant's CO, the applicant's mental health evaluation was summarized as follows:

Summary of psychiatric evaluation: [The applicant] has a long-standing pattern of behavior that is explained as Schizoid Personality Disorder. He has a pattern of detachment from social relationships, prefers solitary activities, has few close friends, shows emotional detachment and has odd thinking and speech. His behavior is reported to be "eccentric" by many people.

The applicant was diagnosed as follows:

Axis I: No Axis 1 Psychiatric Diagnosis

Axis II: Features of Schizoid and Schizotypal Personality Disorder

This is a long standing condition manifest by emotional and social isolation, odd beliefs and eccentric behavior.

Axis III: No medical conditions

Axis IV: Global assessment functioning:

Current: 51-60 Moderate impairment of functioning

Suicidal ideation is NOT present.

Homicidal ideation is NOT present.

Duty limitations: No Sea Duty or prolonged deployments

The applicant's prognosis was as follows:

Poor – Never expected to return to full duty

Poor – Condition does not meet medical retention standards

The applicant's treatment plan was as follows:

Medications: none required

Psychotherapy/counseling:

Provider: Civilian Counselor

Frequency: weekly

Duration: 6 weeks

The recommendations were as follows:

Remain on limited duty as specified in paragraph 3 awaiting completion of the Administrative separation

The Service member is returned to duty with the limitations noted in paragraph 4

Administrative separation is recommended as soon as possible as it is unlikely this service member will successfully adapt a military lifestyle and continuation on active duty would not be in the best interest of the service member and the USCG.

The service member is fully cognitively intact, mentally competent, able to distinguish right from wrong, and is fully responsible for all actions.

The Medical Record Report dated March 30, 2005, notes several findings:

[The applicant] appears to be very intelligent, and is physically fit. He has difficulty obtaining and maintaining qualifications. He has difficulty interacting with other crew members and prefers to work alone. Although intelligent he took much longer to qualify for his basic levels of unit-required qualifications than most of his peers. His supervisors concur that his strong points and skills are better aligned with that of the Storekeeper rather than a Machinery Technician.

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[The applicant] reports testing being done while he was in elementary school to see if he has ADHD. This evaluation was "normal" and medication was never recommended. He completed high school with above average grades, but did not participate in many social activities. He preferred to be alone and to work on intellectual activities.

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[The applicant] is the son of a retired Coast Guard Chief and thus moved around a great deal as a child. He reports having few friends. He has always had an “even-tempered” personality which he explains as having few ups and downs in his emotions. He says he prefers solitary activities and neither desires nor enjoys close relationships. He has always been interested in religion and has studied several different religions and martial arts. He states he is an ordained minister and practices the religion of “Christian Druid.”

He explained that he has an interest in a program at a California University where he works on the internet to “design a planet.” He is clear that this is a hobby and he is very clear that this is all an abstract process. He understands that he was quoted as saying “I’m from another planet.” He is very clear that he considers this a gross misinterpretation of what he said. At the same time he admits that many of his interests, especially the intensity of his interests are frequently misunderstood.

He has been described as eccentric by many people and reports hearing these types of comments during his school age years.

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[The applicant] was alert, cooperative, and oriented to time, place, person, and circumstance. Mood is very limited. He sits straight in the chair and rarely expresses any emotion. Eye contact is normal and appropriate. Speech is normal rate, quality and volume. Thought processes are linear and goal directed. No evidence of hallucinations, delusions, obsessions or compulsions but he has difficulty answering direct questions and he tends to find complications in every question and talks around the subject. General physical behavior is normal. Thought content is normal but he tends to continue talking and has a small degree of tangential thinking. Suicidal thoughts are absent at this time. Homicidal thoughts have never been present. The patient is able to spell the word “world” backwards without difficulty.

On April 21, 2005, the applicant received a memorandum from his CO to inform him that an action to discharge him from the Coast Guard had been initiated. The memorandum also notified the applicant that his performance marks supported an honorable discharge. The memorandum states that the applicant’s diagnosis of Personality Disorder (Schizoid) and disqualification from enlistment in the U.S. military as the reasons for the discharge action. In the memorandum, the applicant was informed of his right to submit a statement of disagreement with the discharge action.

In a memorandum dated April 22, 2005, the applicant acknowledged receipt of notification of his proposed discharge and attached a statement objecting to the recommendation to discharge him from the Coast Guard. In his statement, the applicant contested the diagnosis of Schizoid and Schizotypal Personality Disorder. He provided explanations for statements he had made and for what others might perceive as anti-social and abnormal behavior.

On a Medical Record Narrative Summary (Clinical Resume) dated April 27, 2005, with the subject heading, “Narrative Summary of Psychiatric Evaluation,” a doctor wrote that the applicant had been referred for “non-conventional statements, stressors, and difficulty with job performance” and that the psychiatrist had diagnosed him with Schizoid Personality Disorder (301.20), “a long-standing condition manifest by emotional and social isolation, odd beliefs and eccentric behavior.” The doctor noted that under the Coast Guard Medical Manual, any person-

ality disorder is disqualifying for service, and he recommended that the applicant be administratively discharged in accordance with Chapter 12 of the Personnel Manual.

On May 24, 2005, a CWO3 sent a memorandum to the Coast Guard Personnel Command (CGPC) in which he concurred with the recommendation that the applicant be discharged due to unsuitability, as a result of his diagnosis of personality disorder.

On June 28, 2005, CGD THIRTEEN (rp) sent a memorandum to CGPC recommending an unsuitability discharge of the applicant in accordance with the recommendations of his CO, due to his diagnosed personality disorder.

On August 1, 2005, the applicant was discharged from the Coast Guard. Pursuant to CGPC's orders, he received a discharge characterization of Honorable with a JFX separation code and narrative reason of "Personality Disorder" under Article 12.B.16 of the Personnel Manual.

On April 4 and 25, May 16, and June 2, 2011, the applicant was seen by a civilian psychiatrist for a total of about five hours for an evaluation of his mental condition. In a letter dated August 6, 2011, which summarizes the results of the applicant's evaluation, the psychiatrist concluded that nothing the applicant said or did "manifested a deficit or disease of cognitive neurophysiology" on the applicant's part. (See attached.)

The applicant applied to the Discharge Review Board (DRB) in 2011. A letter regarding a decision of the DRB in the record notes that the applicant had argued about procedural errors and had claimed that he does not have a personality disorder. The Board unanimously found that the applicant's discharge should stand as issued because his record supports the diagnosis and there was no impropriety or inequity with his discharge.

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. The JAG adopted the findings and analysis in a memorandum prepared by the Personnel Service Center (PSC).

PSC first claimed that the applicant's application was not timely submitted. PSC further stated that the applicant's Command had requested a psychiatric evaluation of the applicant and a fitness for duty statement due to "non-conventional statements, stressors, and difficulty with job performance." PSC alleged that the evaluation showed that the applicant had "a long-standing pattern of behavior that is explained as Schizoid Personality Disorder"; that he was "never expected to return to full duty"; and that his condition "does not meet medical retention standards." PSC stated that because the applicant's diagnosis of Schizoid Personality Disorder is a disqualifying condition for retention on active duty, he was processed in accordance with Chapter 12, Personnel Manual for an administrative discharge. PSC noted that, according to the Personnel Manual, COMDTINST M1000.6A (series), Chapter 12.B.16.b.2, personality disorder, as determined by medical authority, and personality behavior disorders and disorders of intelligence

listed in the Medical Manual, COMDTINST M6000.1 (series), Chapter 5, are cause for discharge due to unsuitability.

PSC stated that the record shows that the applicant was notified in writing on April 21, 2005, of his CO's intention to discharge him due to a diagnosed schizoid personality disorder and objected to the discharge by submitting a statement in dispute of the recommendation. PSC also noted that the DRB has upheld the applicant's honorable discharge due to "personality disorder" as proper and equitable. Therefore, PSC recommended that no relief be granted.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

In a written response to the Coast Guard's advisory opinion dated November 11, 2014, the applicant objected to the claim that his application is untimely. The applicant stated that upon learning of his diagnosis he took several actions to dispute it, including providing the April 29, 2004, written statement of disagreement with the diagnosis and the recommendation to discharge him from the Coast Guard; his actions to have the DVA provide evaluation information on April 11, 2006; and his submission to the DRB in December 2011. The applicant stated that he has been disputing his diagnosis since it was issued and for nearly 10 years.

The applicant stated that he was not allowed to receive a second opinion prior to the effective date of his discharge, nor was he afforded legal counsel. He stated that he became knowledgeable about his diagnosis during the summer of 2010 only after he took an Abnormal Psychology class that covered his condition type and the rigorous guidelines established for proper verification of such a diagnosis. The applicant stated that following completion of the class, he did additional research in the correction of records and took steps to submit an application to the DRB, which was within the required timeframe, less than 2 years from the date of discovering the stigma. He noted that his application was accepted by the DRB without any timeliness issues. The applicant stated that he took the time, during this two-year period, to gain an understanding of the processes needed for correction to records and to get a second opinion that followed American Psychiatric Association (APA) guidelines. After finding the DRB decision to be unjust, the applicant submitted his application to the BCMR.

The applicant stated that the initial psychiatric evaluation conducted by the Coast Guard was conducted under false pretenses because the applicant was led to believe he was being evaluated for work-related stress and to assist with his request for a change in rate to Storekeeper. The applicant reiterated that his demeanor changed after finding out the severity and true reason for the assessment. He alleged that the initial evaluation only lasted 45 minutes and did not conform to APA guidelines. The applicant stated that a second opinion he received in 2011 (see attached) indicated that "such a diagnosis could not be obtained under such lacking parameters." He alleged that his station and group commands processed his discharge using an improper evaluation without fully understanding the consequences or the resulting stigma associated with this psychiatric condition.

The applicant argued that the DRB's finding that the second evaluation he received does not provide a specific diagnosis or rule out the original diagnosis is unjust because the DRB members are neither qualified nor inclined to second guess the original diagnosis. The applicant

noted that in the second evaluation provided as evidence to the DRB, the psychiatrist claimed that the results of his 2005 testing do not add up to a diagnosis of personality disorder. The applicant asserted that the DRB did not accept or, possibly, even review the second evaluation, which states that the military requires its doctors to diagnose a disorder regardless of whether or not one actually has the disorder. The applicant further asserted that the DRB's reasoning implies that a certified professional's list of facts is not good enough to call into question another professional's "single sentence of opinion." The applicant alleged that any doctor who writes just one sentence as proof, as in the applicant's case, is disrespectful to the patient and to have that one sentence be based upon an opinion, instead of tests and facts, is irresponsible given the duties of a doctor. The applicant argued that allowing one sentence by a doctor to stand as evidence of a diagnosis, drastically change the course of a career, and damage a lifelong way of living is dishonorable.

In response to PSC's claim that the applicant had "demonstrated behavior" that warranted the evaluation in 2005, the applicant provided a timeline of events that covers the period from his check-in at his assigned station to the time of his response to the present. The applicant alleged that the timeline shows that the alleged "demonstrated behavior" can be called into question because of the lack of negative events and the continued support of the station command for the applicant in his request for a change in rate and on his performance review.

The applicant noted that the DRB had pointed out that the psychiatrist who diagnosed him with a personality disorder had referenced DoD regulations, which do not apply to the Coast Guard. He argued that if PSC concurred with the DRB's findings, denying all of the relief he requested, then the Coast Guard must also agree with that the regulations referenced by the original evaluating psychiatrist were not applicable to the Coast Guard. Therefore, he argued, the references and the entire report should be considered invalid. The applicant stated that for one professional to use a reference that is denied by another is unethical and elitist.

The applicant offered his post military employment with the Coast Guard as proof that he is not exhibiting any characteristics or symptoms of Schizoid Personality Disorder. He stated that the Coast Guard rehired him less than one year after his discharge. He continues to advance in his career and he is performing very well on his civilian job with the Coast Guard. The applicant stated that he has earned a Bachelor's of Science in Technology Administration, and Schizoid Personality Disorder does not align itself with such academic and personal achievements, since his degree requires study in leadership management, program supervision and development, and other areas of direct personal and professional interactions. The applicant alleged that Federal agencies, civilian professionals, co-workers, and friends have agreed that the original evaluation is flawed and have provided statements in support of a correction to the applicant's military records to remove the Personality Disorder diagnosis. These include statements from the applicant's wife, best friend of 13 years, co-worker of more than 8 years, brother-in-law, and a former U.S. Army Colonel with degrees in psychology and criminal justice.

APPLICABLE POLICY

Article 12.B.1 of the Personnel Manual, COMDTINIST M1000.6A, in effect in 2005, entitled "General," states the following:

12.B.1.a. Discharge Authority

Commander, Coast Guard Personnel Command is the Discharge Authority in all cases of administrative separation except in those cases specified in Articles 12.B.7, 12.B.9, 12.B.11, 12.B.15, 12.B.16, and 12.B.20, in which the district commander, maintenance and logistics commands, or commanding officer, as appropriate, may be the Discharge Authority.

Article 12.B.16. of the manual, entitled “Unsuitability,” states the following:

12.B.16.a. By Commandant’s Direction

Commander, CGPC shall direct the discharge of enlisted members for unsuitability except as provided in Article 12.B.16.e. A discharge for unsuitability in lieu of disciplinary action will not be issued unless Commander, CGPC determines the Service’s and the member’s interests will be best served by administrative discharge. **See Article 12.B.1 when recommending the discharge of a first-term performer for unsuitability.**

12.B.16.b. Causes for Discharge for Unsuitability

The purpose of charges for unsuitability is to free the Service of members considered unsuitable for further service because of:

...

2. Personality Disorders. As determined by medical authority, personality behavior disorders and disorders of intelligence listed in the Medical Manual, COMDTINST M6000.1 (series), Chapter 5.

Chapter 5 of the Medical Manual, COMDTINST M6000.1D, entitled “Psychiatric Conditions (including personality disorders) states that personality disorders are disqualifying for appointment, enlistment, and induction and, if identified on active duty shall be processed in accordance with Article 12.B.16., Personnel Manual, COMDTINST M1000.6 (series). Schizoid (301.20) and Schizotypal (301.22) Personality Disorders are listed as Personality Disorders disqualifying for appointment, enlistment and induction.

Under the Separation Program Designator Handbook, members involuntarily discharged by directive because of a diagnosed personality disorder are assigned separation code JFX and either an RE-4 or RE-3G reenlistment code on their DD 214s.

ALCOAST 125/10, issued on March 18, 2010, states that, to align Coast Guard policy more closely to that of the Department of Defense, “[i]n cases where individuals are separated for cause and there is an option of assigning an RE-1 (eligible for reenlistment), RE-3 (eligible for reenlistment except for disqualifying factor), or RE-4, the RE-3 is the normal standard unless a different code is authorized by the discharge authority.” For example, the ALCOAST notes that for members discharged because of alcohol incidents, an RE-3 code is prescribed unless the member engages in misconduct by, for example, incurring a DUI or refusing rehabilitative treatment, in which case an RE-4 code is prescribed. In addition, the ALCOAST eliminated the sub-categories denoted by RE-3 code letters (RE-3F, RE-3G, RE-3P, etc.) so that only the code “RE-3” appears on the DD 214.

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 section 1552 of title 10 of the United States Code.

2. The applicant requested an oral hearing before the Board. The Chair, acting pursuant to 33 C.F.R. § 52.51, denied the request and recommended disposition of the case without a hearing. The Board concurs in that recommendation.⁵

3. Under 10 U.S.C. § 1552(b), an application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. Although the applicant in this case filed his application more than three years after he was discharged and received his DD-214, he filed it within three years of the decision of the Discharge Review Board. Therefore, the application is considered timely.⁶

4. The applicant asked the Board to correct his separation code and narrative reason for separation on his DD-214 so that they will not reflect a diagnosis of personality disorder, which he alleged he never had, and to upgrade his reenlistment code to RE-1 so that he will be eligible to reenlist. He further alleged that he was erroneously discharged from the Coast Guard for Schizoid Personality Disorder because the evaluation upon which the discharge decision was based was invalid or improper. The Board begins its analysis in every case by presuming that the disputed information is correct as it appears in the applicant's record. The applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁷ 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."⁸

5. Because employers sometimes demand to see veterans' DD-214s before hiring them, it is very important for DD-214s to be fair and not to unduly tarnish members' records without substantial evidence. 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 some other, less prejudicial reason when the diagnosis of personality disorder was uncertain or not supported by significant inappropriate behavior.⁹ On the other hand, the

⁵ *Armstrong v. United States*, 205 Ct. Cl. 754, 764 (1974) (stating that a hearing is not required because BCMR proceedings are non-adversarial and 10 U.S.C. § 1552 does not require them).

⁶ *Ortiz v. Secretary of Defense*, 41 F.3d 738, 743 (D.C. Cir. 1994).

⁷ 33 C.F.R. § 52.24(b).

⁸ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁹ See, e.g., BCMR Docket Nos. 2009-106, 2008-127, 2007-221, 2007-028, 2005-082, 2005-045, 2004-044, and 2003-015.

Board has not removed the narrative reason “personality disorder” from the DD-214s of some veterans whose inappropriate conduct supported their diagnoses.¹⁰

6. The record shows that the military psychiatrist who interviewed the applicant at the behest of his command on March 30, 2005, reported only “features” of Schizoid and Schizotypal Personality Disorder, which is not the same thing as diagnosing a personality disorder.¹¹ In preparing the report of his pre-separation physical examination on April 27, 2005, however, another doctor reported that the psychiatrist had diagnosed the applicant with Schizoid Personality Disorder. Whether the psychiatrist had actually done so is unclear, however, and the applicant has presented some evidence to prove he does not have a personality disorder. The applicant has obtained a second psychiatric evaluation, albeit six years after his discharge. This second psychiatrist evaluated the applicant over several sessions and concluded that he did not say or do anything that “manifested a deficit or disease of cognitive neurophysiology” on his part. She suggested that the applicant might have been misdiagnosed.

7. Additionally, the Board notes that since his discharge, the applicant has demonstrated the ability to remain gainfully employed. He was hired as a civilian employee with the Coast Guard within a year after his discharge and has earned a Bachelor of Science degree in Technology Administration. The applicant has successfully worked in customer service for seven years. He noted that, in his current work with the Coast Guard, he has provided assistance to the very personnel who were responsible for initiating and processing his discharge. The applicant has been married for six years and maintains some long-term interpersonal relationships. He provided several statements from people who know him well and who disagree with the diagnosis and claim that he has never exhibited symptoms of Schizoid or Schizotypal Personality Disorder. Therefore, the Board finds that the preponderance of the evidence shows that the applicant’s conduct since his discharge has not been consistent with an enduring and pervasive Schizoid or Schizotypal Personality Disorder.

8. In addition to the evidence the applicant provided, the Board notes that the diagnosis was apparently made based on only one 45-minute interview. According to the DSM-IV-TR, which the Coast Guard relies on for psychiatric diagnoses, “[t]he 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 clini-

¹⁰ See, e.g., BCMR Docket Nos. 2010-002, 2001-020, 2000-142, 1999-185, 1999-037, and 1998-099 in which the Board upheld the unsuitability and personality disorder discharges of, respectively, a veteran who was diagnosed with an antisocial personality disorder after committing various offenses, including unauthorized absences, theft, disobedience, and drug use; a veteran who was diagnosed with a dependent personality disorder after going AWOL and committing various other disciplinary infractions; a veteran who was diagnosed with a borderline personality disorder and went to an historic tower, told a guard at the bottom that he was going to hang himself off the top with a dog collar and leash, and waited at the top until the police arrived; a veteran with numerous disciplinary infractions and performance problems in his record who was diagnosed by two psychiatrists with a borderline personality disorder; a veteran who frequently exhibited inappropriate sexual behavior over a two-year period and was twice diagnosed with “adjustment disorder with disturbance of conduct”; and a veteran who was twice arrested for indecent exposure and diagnosed with narcissistic personality disorder.

¹¹ DSM-IV-TR, pp. 685-90.

cian should assess the stability of personality traits over time and across different situations.”¹² In this case, the applicant alleged that the DRB’s decision to deny relief was erroneous because the second psychiatric evaluation, to which the DRB had access, essentially contradicted and invalidated the Coast Guard’s evaluating psychiatrist’s reasoning that resulted in a diagnosis of “Schizoid or Schizotypal Personality Disorder.” Specifically, the applicant refers to page 5, paragraph 4, which states that the qualified professional’s opinion that results from their testing do not add up to a personality disorder. On page 5, paragraph 5 (continued on to page 6) the same professional further states that the testing must reach a severity of “moderate” to be considered as evidence for establishing any positive diagnosis and is immediately followed with statements that at no time during the visits was a level of “moderate” result achieved.

The Board also notes that the conduct and statements documented in the applicant’s record, which he exhibited while on active duty as a Machinery Technician, appear to be consistent with features or traits of Schizoid and/or Schizotypal Personality Disorder. However, it is not clear from the report of the military psychiatrist how he apparently identified long-term patterns of functioning in a single 45-minute interview with any degree of certainty.

9. The Board finds, however, that the preponderance of the evidence shows that the applicant was demonstrating repeated, aberrant speech and behavior that was not adaptive to military life. Therefore, his discharge from military service *per se* cannot be considered erroneous or unjust. Whether his aberrant behavior was due to immaturity, an adjustment disorder,¹³ or something else is unclear, but he clearly was discharged because of a mental/behavioral state that rendered him unsuitable for military service at that time. Therefore, the Board finds that the applicant’s DD 214 should be corrected to show that he was discharged for “Condition, Not a Disability” with separation code JFV. “Condition, Not a Disability” is a generic reason for separation appropriate for a variety of conditions, such as phobias, sleepwalking, or enuresis, which are not physical or mental disabilities but render someone unsuitable for military service. Given that the applicant was discharged because of his mental/behavioral state and the uncertainty of his diagnosis, the Board finds that correcting his DD 214 to reflect a discharge due to “Condition, Not a Disability” is accurate, just, and appropriate in this case.

10. The applicant asked the Board to upgrade his reenlistment code from RE-4 to RE-1. The Board does not believe that the applicant is entitled to an RE-1 because he clearly could not adapt to military life in 2005, and it is not clear from the record that he would be able adapt well to military life today, although his success in civilian life is apparent. Under the SPD Handbook, a member discharged for “Condition, Not a Disability” may receive an RE-3 reentry code, instead of an RE-4. An RE-3 code is not an absolute bar to reenlistment; it means that the veteran is eligible to reenlist but must receive a waiver to do so. An RE-3 allows a veteran to reenlist if he can prove to the satisfaction of his recruiter and the Recruiting Command that the condition or circumstance that caused his previous discharge no longer exists and so should not prevent his reenlistment. Therefore, the Board finds that the applicant’s reentry code should be upgraded to RE-3.

¹² DSM-IV-TR, at 686.

¹³ *Id.* at 679.

11. Accordingly, relief should be granted by ordering the Coast Guard to issue the applicant a new DD 214 with separation code JFV in block 26, reenlistment code RE-3 in block 27, and “Condition, Not a Disability” as the narrative reason for separation in block 28. In addition, the following sentence should be added to the remarks in block 18 because a duplicate DD 214 is being issued: “Action taken pursuant to order of BCMR.”

(ORDER AND SIGNATURES APPEAR ON PAGE)

ORDER

The application of former [REDACTED] [REDACTED] USCG, for correction of his military record is granted in part as follows:

The Coast Guard shall issue him a new DD-214 showing that he was discharged due to a "Condition, Not a Disability" with separation code JFV and reentry code RE-3. In addition, the following sentence shall be added to the remarks in block 18 because a duplicate DD-214 is being issued: "Action taken pursuant to order of BCMR."

March 27, 2015

