

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-201

████████████████████
████████████████████

FINAL DECISION

This is a proceeding 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 after receiving the applicant's completed application and military records on August 22, 2014, and assigned it to staff member ██████████ as required by 33 C.F.R. § 52.61(c).

This final decision, dated June 25, 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 May 20, 2013, after completing one year, eight months, and seven days of active service, asked the Board to reverse the discharge to finish the contractual obligations he signed up for, with no breaks in service record. He also asked to be admitted to HS (Health Services) A School within 90 days of reentry. In the alternative, the applicant asked the Board to upgrade his reenlistment code on his DD-214 Certificate of Discharge from Active Duty from RE-3 to RE-1, and any other considerations the Board sees fit, due to being wrongfully discharged on May 20, 2013.

The applicant alleged that he was wrongfully discharged, contending that the Coast Guard lacked sufficient evidence to recommend discharge due to adjustment disorder, and did not meet the criteria for discharging him set forth in COMDTINST M6000.1, Chapters 5.B. and 3.F. The applicant alleged that he never received an "official" diagnosis of adjustment disorder from one of his regular, attending physicians. He alleged that documentation of an evaluation by another doctor who examined him upon his release from the hospital on February 28, 2013, stated that applicant did not have adjustment disorder was omitted from the discharge packet sent to the District Commander before the District Commander signed off on the applicant's discharge.

The applicant also alleged that he was never advised by his supervisor of a performance or conduct deficiency, nor was he ever brought before the Chief's mess for a performance

deficiency. He further alleged that his supervisors never tried to intervene to notify him of his performance and conduct deficiencies.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on September 27, 2011, in Savannah, Georgia. Before he enlisted, on August 23, 2011, he underwent a medical examination, which showed that he does not have normal color vision. On the same day, he signed the following statement of acknowledgement on an Administrative Remarks (CG-3307):

I have been advised that my medical examination revealed that I do not have normal color vision. I understand that, if I am enlisted in the Coast Guard, I will not be permitted to enter the ratings of AMT, AET, AST, BM, EM, ET, GM, HS, IS, IT, IV, MK, or OS during the period of this or subsequent enlistments. I am also aware that if I enter the MST rating, I will not be able to eligible for appointment to CWO (BOSN) and that all personnel, regardless of rate, must possess normal color vision to be assigned to station boat crew billets. Furthermore, I have been advised that my defective color vision disqualifies me from applying for Officer Candidate School or the Coast Guard Academy.

The applicant signed the recruiter's administrative remarks and proceeded with his enlistment in the Coast Guard. After enlisting, the applicant completed recruit training and was assigned to a Sector office.

On October 1, 2012, the applicant received a CG-3307 counseling him for several incidents of tardiness with poor or no excuse. He was counseled for a second time for repeated incidents of tardiness on December 5, 2012.

On February 22, 2013, applicant was counseled regarding his civil and moral obligations to provide continuous and adequate support of his lawful dependents. Applicant was ordered to provide \$298.50, or 16.7% of his basic pay of \$1,787.40, as per COMDINST M1600.2, Article 2.E.3.c., to support his dependents.

On February 22, 2013, the Applicant was hospitalized after he admitted making the statement to his supervisor that "I'd rather kill myself than stay in CG Sector ...". The applicant told his attending physician, Dr. R, that he was stuck in the Coast Guard barracks and held a job that was equivalent to a janitor. The applicant also told the attending physician that he was tired of his position and had made a statement to his supervisor that he would rather kill himself than stay in this job. The applicant was admitted to the hospital from February 22, 2013 through February 28, 2013 on this basis. Dr. R diagnosed applicant as having adjustment disorder, a history of major depression, single episode, moderate, without known psychosis-resolved. Dr. R also noted that the applicant had "poor coping skills within the Coast Guard."

Several months (exact date unknown) before he was hospitalized in February 2013, the applicant was driving his car when it hit a deer, flipped over, and caught fire. The applicant told doctor he was fine following the accident.

On February 28, 2013, before his release from the hospital, the applicant was examined by Dr. B. According to an unsigned medical note, Dr. B found that there was a need to rule out a

possible diagnosis of adjustment disorder with depression. Dr. B's report was not later included in the applicant's discharge recommendation.

On February 28, 2013, in his regular biannual performance review, the applicant received performance marks of 3.75 for leadership qualities and 3.83 for professional qualities on a scale of 1 (worst) to 7 (best). In spite of the substandard ratings, the applicant was still recommended for advancement on this performance review.

On March 1, 2013, the applicant was treated by a psychiatrist, Dr. C, at the Naval Health Clinic. Dr. C prescribed him Wellbutrin to treat his symptoms of depression. The applicant told Dr. C that, besides his work issues, he was also depressed because his ex-fiancée chose to stay in Savannah with their fifteen-month-old child rather than with the applicant where he was stationed in the same region. As a result, the applicant lost his housing allotment and was forced to move to the barracks at the base. The applicant also claimed that his symptoms had resolved, and that he was no longer taking Wellbutrin. In his diagnosis, Dr. C noted that although the applicant's adjustment disorder symptoms had resolved, "personalities remain." Dr. C prescribed continued psychotherapy with Navy psychologist Dr. W.B., with whom the applicant had an appointment on March 5, 2013.

On March 5, 2013, the applicant was examined again by Dr. C, a Navy psychiatrist. Dr. C's diagnosis stated that the applicant's adjustment disorder had resolved while the applicant was in the hospital, but that "personality vulnerabilities remain." He recommended that the applicant continue therapy with the Navy psychologist, Dr. W.B.

Also on March 5, 2013, Dr. W.B, Navy psychologist. Administration of BDI-II revealed a score of 27, which is typically indicative of moderate depression. Furthermore, when asked to rate his distress on a scale of zero to ten, the applicant described his depression at a level 6. The applicant reported to Dr. W.B. being depressed for approximately 2 months, and reported experiencing worry, anxiety, nightmares, irritability, panic, sleep problems, stuttering or stammering reckless driving, and occasional thoughts of harming himself. He also reported suffering frequent and severe headaches. The applicant also reported financial difficulties as a result of being cheated by a friend concerning the purchase of a car. Dr. W.B. diagnosed the applicant with an adjustment disorder and recommended that the applicant follow up with him to monitor symptoms and to provide counseling until the applicant's status in the Coast Guard was resolved.

On March 7, 2013, Dr. S, a certified physician's assistant and Navy LTJG, recommended an administrative discharge for the applicant based on the diagnosis of adjustment disorder and inability to conform to life in the Coast Guard. Dr. S noted that he agreed with the opinions of Dr. W.B and Dr. C. that the applicant suffered from persistent adjustment disorder "directly related to his inability to conform to military life," that the applicant's depressive moods and hospitalization were directly linked to "specific situations working at CG Sector ..." On this basis, Dr. S believed that the applicant's adjustment disorder qualified him for an administrative separation in accordance with Coast Guard Medical Manual, COMDINST M6000.1E (Chapter 3.F. p. 121) and Coast Guard Military Separations, COMDINST M1000.4 (Chapter 1.B. 15.b)

On March 7, 2013, the applicant's command notified the applicant that he was initiating action to discharge the applicant by reason of Unsuitability due to personality disorder. The command cited the diagnoses of Drs. R, C, S, and W.B. of the applicant's adjustment disorder and his vulnerability to a future relapse requiring prolonged treatment as reasons for initiating the discharge. He also notified the applicant that his performance marks supported a recommendation of honorable discharge. He also notified the applicant that (a) he was eligible to participate in the Second Chance Program; (b) he had a right to submit a statement on his behalf; and (c) he had a right to consult with a military lawyer at government expense, or a civilian lawyer at the applicant's own expense.

On March 13, 2013, the applicant acknowledged this notification of intent to discharge and his eligibility for a Second Chance Waiver. He requested the waiver and submitted the following statement on his own behalf. In his statement, the applicant stated that he had been raised in a military family and had long wanted to be part of the Coast Guard. Regarding his diagnosis, the applicant stated that he "became overly stressed due to a series of very unfortunate events which led to a depressed behavior that was abnormal for me." He attributed his psychological problems to totaling his car in a car accident, financial problems, and his fiancée leaving. He also stated that he had originally wanted to enter an aviation rating but could not because of his irregular color perception. Therefore, he was having to rethink his career plan and was hoping to get a waiver of his color blindness to become an operations specialist instead. The applicant stated that he had always wanted to be involved in helping people and saving lives and would become a damage controlman if he could not get a waiver for his color blindness. The applicant stated that if he received a Second Chance Waiver, he would work hard, strive for advancement, serve as a role model, and bring credit and honor to the Coast Guard.

On March 19, 2013, the applicant waived his right to consult a lawyer and attached his statement to the waiver.

On March 26, 2013, Sector Commander recommended that the applicant be separated from the Coast Guard with Honorable Discharge by reason of Unsuitability for adjustment disorder. He found that although the applicant met the eligibility requirements under the Commandant's Second Chance program, the applicant was not recommended for retention in the Coast Guard. The Sector Commander also noted that the applicant's performance began to deteriorate as soon as he discovered he was medically ineligible for the career of his choice. Further, he noted, "Since then, despite repeated attempts to intervene by supervisors and the chief's mess, he has failed to meet minimum Coast Guard standards of conduct and performance. He has consistently demonstrated an inability or unwillingness to adhere to our Core Values, and is currently under investigation for violations of the UCMJ for Unauthorized Absence, Failure to Obey an Order, and making False Official Statements."

On April 11, 2013, the District Commander, a rear admiral, endorsed the Sector Commander's recommendation to discharge the applicant for unsuitability due to adjustment disorder. The District Commander noted that he did not see any extenuating circumstances that would require or allow a second chance under Article 1.B of Military Separations, COMDINST M1400.4; therefore he denied the applicant's request for a second chance.

On April 16, 2013, the applicant received a Non-Judicial Punishment (NJP) of fourteen days' Extra Military Instruction for Failure to Obey Order or Regulation (Dereliction in the performance of duties) for failing to perform his duty to conduct a round of the base at 0200, on February 16, 2013. Pursuant to the NJP, the applicant also received a performance review. On this evaluation, he received low average ratings of 3.25 for Leadership Qualities, 3.5 for Professional Qualities, and an Unsatisfactory rating for Conduct. He was not recommended for advancement.

On May 20, 2013, the applicant was honorably discharged from the Coast Guard. With the separation code JFY, denoting an involuntary discharge directed by an established directive when an adjustment disorder exists, not amounting to a disability, which significantly impairs the member's ability to function effectively in the military environment. The applicant was given the enlistment code RE-3, meaning that he is eligible to reenlist but would need to show that his adjustment order and other mental health issues were resolved and obtain a waiver from the Recruiting Command before reenlisting in the Coast Guard.

VIEWS OF THE COAST GUARD

On March 26, 2015, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny the applicant's requests.

The JAG concurred with the Commanding Officer, Coast Guard Personnel Service Center (CG PSC) that the applicant's separation was supported in accordance with Military Separations, COMDINST M100.4 (series). PSC recommended that the Board deny relief.

After reviewing the applicant's medical and service records provided by the Coast Guard Personnel Center, the JAG stated that the applicant's record does not support a finding of adjustment disorder on the day of discharge. The JAG relied upon the medical opinion of a Coast Guard psychiatrist dated March 18, 2015, based on his review of the applicant's medical and service records. After reviewing the applicant's medical and service records, the psychiatrist noted that the applicant had been hospitalized and diagnosed with an adjustment disorder, which had resolved by the time he was discharged from the hospital. He also found that the records showed areas of concern as to the applicant's suitability for the Coast Guard. Specifically, the psychiatrist noted (1) Dr. C's diagnosis alluding to the applicant's "personality vulnerabilities"; (2) The applicant's suicidal thoughts at the time he was admitted to the hospital in February 2012; and (3) Records of violations of Coast Guard policies, CG-3307's for tardiness and dereliction of duty. Given these areas of concern, in addition to the workplace and ongoing psychosocial stressors, the psychiatrist concluded based on his review of the records that the applicant might be at risk for a relapse of his adjustment disorder or depression in the future.

Based on a review the applicant's service and medical records provided by the Personnel Service Center, as well as the medical opinion provided by the psychiatrist, and taking into consideration the negative CG 3307s that the applicant received for tardiness, counseling on the applicant's legal and moral obligations to provide continuous and adequate financial support to his financial support to his lawful dependents, and the NJP for failure to obey orders, the JAG found that there was sufficient evidence to support a determination that treatment of the

applicant's adjustment disorder was likely to be prolonged and non-curative (e.g., inability to adjust to military life/sea duty, separation from friends/family), in accordance with COMDINST M6000.1(series) 5.A.3, "Adjustment Disorders." Based on these grounds, the Coast Guard recommended that the Board grant no relief.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 27, 2015, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond in writing within 30 days. The applicant submitted his response on May 26, 2015, after the Chair granted a 30-day extension of the deadline for his response to the Coast Guard's views. In his response, the applicant challenged the views of the Coast Guard on the following grounds:

- Dr. R was not the applicant's primary physician while he was admitted to the hospital. The Coast Guard relies on Dr. R's "final diagnostic impression," rather than on the final diagnosis provided by his assigned physician, Dr. B, when the applicant was released from the hospital. The applicant asked how the Coast Guard can rely on Dr. R's diagnostic impression, rather than on the final diagnosis from his assigned physician, which he claims was not submitted to the Coast Guard.
- The applicant challenged the Coast Guard Personnel Service Center's opinion that all medical diagnoses must be read in light of other evidence, given that Dr. B did not sign his diagnosis.
- The applicant alleged that the Coast Guard based all evidence of its diagnosis of adjustment disorder on Dr. R's diagnostic impression, and by cherry-picking lines out of Dr. C's notes and deliberately mischaracterizing his records to justify the adjustment disorder diagnosis.
- The applicant alleged that the Coast Guard has no documentation of his adjustment disorder being prolonged or non-curative. He complained that the Coast Guard is cherry-picking and mischaracterizing lines from Dr. C's diagnosis to justify his discharge.
- The applicant alleged that Coast Guard is trying to use his past history of depression and use of Wellbutrin to justify his discharge. The applicant contended that he only had one prior episode of depression and was only prescribed Wellbutrin for two months, which, he argued, is insufficient to justify a diagnosis of a past history or diagnosis of depression or mental health issues.
- The applicant alleged that the Coast Guard had already decided to discharge him before he was diagnosed with adjustment disorder. He claimed that his father was told by Coast Guard personnel that his discharge was already underway before he was released from hospital.
- The applicant claimed that no official diagnosis of adjustment disorder was ever made.
- The applicant challenged the Coast Guard's citation of his financial difficulties as a reason for discharging him on the basis of Unsuitability. He claimed that the Sector Command based this CG-3307 on a phone call from his ex-fiancée, even though the applicant provided proof that he was providing continuous and adequate support above

and beyond the Coast Guard's requirement of 16.7% of his base pay. The applicant stated that his command chose to enter this CG 3307 in his record in furtherance of their efforts to discharge him and that they produced false documentation as part of this effort.

- The applicant challenged the Coast Guard's citation of separation from family and friends as a cause of his adjustment disorder. He stated that his engagement with his ex-fiancée ended in December 2012, after which his ex-fiancée moved with their daughter away from the area for an extended period of time. The applicant claimed that after their relationship ended, his ex-fiancée called the Sector command regarding the lack of child support. The applicant maintained that he provided continuous and adequate child support and has documentation of such payments. The applicant stated that his daughter now lives in Germany, and separation is not an issue.
- The applicant claimed that his hospitalization should have only been three days rather than six. The applicant was admitted on a Friday but was told that because the Coast Guard would not pick up patients on weekends, his treatment did not start until Monday.
- The applicant claimed that he was never told of his right to request a discharge review/administrative separation, as Coast Guard Memorandum 1910 "in an unadulterated state" (sic), suggests. He stated that he was advised of his right to JAG representation but was also advised the JAG could not do anything for him and to sign the spot saying he did not want to request JAG representation.
- The applicant claimed that the CG 3307s he received for tardiness were inaccurate, as on several occasions, he arrived early and began working before the rest of his shop. The applicant claimed the citations for tardiness were based on lies and rumors spread by his comrades. The applicant submitted a letter from his Yeoman, purporting to document these allegations.
- The applicant claimed that his NJP mast was postponed several times, from December 2012 to February 2013, then to April 2013. He alleged that his command gave no reason for these postponements, which were made in an effort to discredit him and to justify his discharge.
- The applicant alleged that his command manipulated his performance marks in a downward slope in an effort to justify discharging him.
- With regard to the Coast Guard's denial of his entry into HS A School, the applicant claimed that his recruiter told him that waivers of the color vision requirement were available for all non-aviator jobs, and that special color vision lenses were made when absolute color vision was needed in other rates. When the applicant arrived at the Sector, he was told that such waivers/lenses were only available for "good employees." The applicant stated that this was an example of the vindictive behavior he experienced at the Sector.
- The applicant submitted records of a denial by the Department of Veterans' Affairs of his claim for a service-connected depressive disorder disability rating on May 14, 2014. The denial letter noted that the "medical evidence supports the conclusion that a persistent disability was not present in service." Further, the letter stated that "your in-service records report that your mental condition was in remission."

APPLICABLE REGULATIONS

Medical Regulations

Chapter 3.F.16.e of the Medical Manual, COMDINST M1600.1, states the following about adjustment disorders:

Adjustment Disorders. Transient, situational maladjustment due to acute or special stress does not render an individual unfit because of physical impairment. However, if these conditions are recurrent and interfere with military duty, are not amenable to treatment, or require prolonged treatment, administrative separation should be recommended (see Chapter 5 Section B of this Manual).

Chapter 5.A.3 of the Medical Manual states the following about the disposition of adjustment disorder cases:

Adjustment Disorders. These disorders are generally treatable and not usually grounds for separation. However, when these conditions persist or treatment is likely to be prolonged or non-curative, (e.g., inability to adjust to military life/sea duty, separation from family/friends) process in accordance with Chapter 12, Personnel Manual, COMDTINST M1000.6 (series) is necessary.

Chapter 5.B.2.a of the Medical Manual states that Commanding Officers may make emergency health referrals when:

Emergency Evaluations. When to make the mental health referral. A CO should consider making an emergency mental health referral for any member who indicates intent to cause harm to themselves or others and who appears to have a severe mental disorder.

Regulations Regarding Color Vision

COMDINST M1100.2 (Recruiting Manual) states:

9. Color Vision- Administrative Remarks. The Coast Guard and Coast Guard Reserve do not require applicants to possess normal color vision. All applicants are tested for color vision and the results are recorded on the Report of Medical Examination (SF-88). Applicants without normal color vision shall sign the following Administrative Remarks (CG-3307) entry: I have been advised that my medical examination revealed that I do not have normal color vision. If I enlist in the Coast Guard or (Coast Guard Reserve), I understand I will not be permitted to enter the following ratings: AET, AMT, AST, BM, EM, ET, GM, IT, IV, HS, MK, OS, or PS during this period or subsequent enlistments. I am also aware if I enter the MST rating, I will not be able to advance to Chief Warrant Officer (Boatswain Specialty (BOSN) or Marine Safety Specialist (MSS)) and that all personnel, regardless of rate, must possess normal color vision to be assigned to boat crew billets. Furthermore, I have been advised that my defective color vision will prevent me from applying for Officer Candidate School or the Coast Guard Academy.

Discharge Regulations

COMDINST M1000.4 (Military Separations), Article 1.B.15.b.(3), authorizes the discharge of members considered unsuitable for further service because of—

Apathy, defective attitudes, adjustment disorders as listed in reference (d), Coast Guard Medical Manual, COMDTINST M6000.1 (series), Chapter 5, inability to expend effort constructively, or other observable defect for which a separation designator code (SPD code) exists that renders a member unsuitable for further military service.

With regard to the rights of members being considered for discharge Article 1.B.15(d) states the following:

In each case processed in accordance with this Article, commanding officers shall:

- (1) Advise the member in writing, using the letter and endorsement described in Article 1.B.9. of this Manual to inform the member of the reason(s) he or she is being considered for discharge. Specifically state one or more of the reasons listed in Article 1.B.15.b. of this Manual.
- (2) Afford the member the opportunity to make a written statement on his or her own behalf. If the member does not desire to make a statement, commanding officers shall state such fact in writing over the member's signature and that shall constitute his or her statement. If the member refuses to execute any statement whatsoever, the commanding officer will so state.
- (3) Afford the member an opportunity to consult with a lawyer as defined in Article 27 (b) (1), UCMJ, if the member's character of service warrants a general discharge. If the member is entitled to and requests counsel and one is not available, a commanding officer must delay discharge proceedings until one is available.

Regulations Regarding Reenlistment Codes

ALCOAST 252/09, issued on April 29, 2009, states that historically, when members have been discharged for an inability to adjust to military life, the only available separation code was JNC with a narrative reason of unacceptable conduct. However, the Department of Defense has recognized the need for additional separation codes and narrative reasons and created new separation codes, specifically for members diagnosed with an adjustment disorder not amounting to a disability. The ALCOAST specifies that the new separation code JFY, narrative reason adjustment disorder, may be used for “[i]nvoluntary discharge directed by an established directive when an adjustment disorder exists, not amounting to a disability, which significantly impairs the members[sic] ability to function effectively in the military environment.” The ALCOAST also establishes that the re-entry code assigned can be either RE-3G or RE-4.

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 over this matter under 10 U.S.C. § 1552(a).
2. Under 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22, an application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. The applicant was discharged from the Coast Guard on May 20, 2013, and his application is timely.
3. 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.¹
4. The applicant alleged that his discharge due to “adjustment disorder” was erroneous and unjust and requested a reversal of his discharge to allow him to finish his enlistment with no break in his service record and assignment orders to attend HS (Health Services) A School within 90 days of reentry, in spite of his color vision issues. In the alternative, he asked the Board to upgrade his reenlistment code from RE-3 to RE-1. The Board begins its analysis in every case 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.² 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.”³
5. The preponderance of the evidence shows that the applicant met the criteria for discharge for adjustment disorder, as set forth in Chapters 3.F.16.e and 5.A.3. of the Medical Manual, COMDTINST M6000.1. The applicant’s medical and service records show that sufficient evidence existed for the Coast Guard to conclude that the applicant had been diagnosed with an adjustment disorder after he made a suicidal comment and was considered to be at risk for a relapse of his adjustment disorder in the future. Doctors who examined the applicant while he was admitted to hospital in February 2013 and after his release noted that although the applicant was no longer suffering from an adjustment disorder and threatening suicide after a week in the hospital, his poor coping skills and personality vulnerabilities made him prone to a relapse, which made him unsuitable for military life. These doctors also identified the applicant’s separation from family and friends, which is normal in the military, as an enduring stressor.
6. Although the applicant alleged that Dr. B found that he did not have an adjustment disorder, Dr. B’s unsigned comment “rule out adjustment disorder” does not mean that Dr.

¹ See *Steen v. United States*, No. 436-74, 1977 U.S. Ct. Cl. LEXIS 585, at *21 (Dec. 7, 1977) (holding that “whether to grant such a hearing is a decision entirely within the discretion of the Board”).

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

B had actually ruled out this diagnosis. In medical jargon, “rule out” means that the diagnosis is possible and should be considered.⁴ Therefore and in light of the other doctors’ reports and the applicant’s poor performance and conduct, the Board finds that the evidence of record supports a determination that treatment was likely to be prolonged and non-curative. Chapter 3.F.16.e. of the Medical Manual establishes that if an adjustment disorder is recurrent, interferes with military duty, is not amenable to treatment, or requires prolonged treatment, administrative separation should be recommended. Therefore, the Board finds that the Coast Guard’s discharge of the applicant for Unsuitability based on his diagnosed adjustment disorder met the criteria for an administrative discharge in COMDTINST M6000.1, Chapters 3.F.16.2 and 5.A.3. and Article 1.B.15. of the Military Separations Manual, COMDTINST M1000.4, even though the symptoms of his adjustment disorder apparently resolved during his week in the hospital.

7. The applicant submitted copies of mental health evaluations he received in February 2014, in connection with his application to the Department of Veterans’ Affairs for a service-connected disability rating for depression. These evaluations determined that he showed no signs of depression at the time of the evaluation and that his service-connected conditions were in remission. However, as these evaluations took place in February 2014, a year after the applicant was diagnosed with adjustment disorder, these documents do not serve as evidence of the applicant’s mental state while he was on active duty or at the time of his discharge. Further, the DVA’s disability claim determinations are made according to very specific rules and purposes, pursuant to Title 38 of the United States Code and Title 38 of the Code of Federal Regulations. The DVA’s determinations do not apply to or govern Coast Guard separations and do not govern the applicant’s 2013 discharge from the Coast Guard.

8. The preponderance of the evidence shows that the applicant repeatedly received below-standard performance marks and was counseled several times for tardiness. In April 2013, the applicant was also counseled on his legal and moral obligations to provide adequate and continuous support for his legal dependents. Finally, on February 26, 2013, the applicant received NJP for failing to obey an order on February 16, 2013. The Board finds that this evidence of poor performance and disciplinary violations supports the conclusion that the applicant suffered from adjustment disorder and was unsuited to military life and the Coast Guard’s decision to discharge him administratively on grounds of Unsuitability. The applicant has not proven by a preponderance of the evidence that his discharge was improper or that the characterization of his discharge was erroneous or unjust.

9. The Board notes that the applicant contested many of the entries in his record and made numerous allegations with respect to the actions and attitudes of various Coast Guard personnel and others involved in reporting or assessing the applicant’s conduct. However, he submitted insufficient evidence to support his allegations about his performance and conduct.

⁴ See, e.g., COMDTINST M6000.1D, 4.B.14.a.(4); Kilbourne, B. Hilton S.M. and Goodman J., “Psychiatric and Non-Psychiatric Predictors of Disability Discharge Disposition for Navy Personnel with a Mental Health Problem: A Replication and Extension,” p. 14 (Naval Health Research Center, NHRC Report No. 88-40), available at <http://www.dtic.mil/dtic/tr/fulltext/u2/a206059.pdf>.

Those allegations not specifically addressed above are considered to be unsupported by substantial evidence and/or are not dispositive of the case.⁵

10. The applicant asked the Board to upgrade his reentry code to RE-1 so he can reenlist. However, under ALCOAST 252/09, a member being discharged with the JFY separation code may receive either an RE-3G or an RE-4 reentry code. An RE-3 reentry code is not a permanent bar to reenlisting, but requires a veteran to convince a recruiter that the problem that caused his discharge will no longer impede his ability to serve in the military. Given the applicant's mental health issues during his service, as well as his poor performance and conduct record in the Coast Guard, the Board agrees with the Coast Guard that this hurdle to reenlistment should not be removed.

11. The applicant's color vision does not qualify him for the HS rating, as per COMDTINST M1000.2. At the time of his enlistment in the Coast Guard, the applicant signed a CG-3307 Administrative Remark acknowledging that his color vision made him ineligible for this and several other ratings. Therefore, the Board finds that there is no basis to grant him entry into the HS rating.

12. Accordingly, the applicant has failed to prove by a preponderance of the evidence that his record contains an error or injustice. His application should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁵ 33 C.F.R. § 52.24(b); see *Frizelle v. Slater*, 111 F.3d 172, 177 (D.C. Cir. 1997) (noting that the Board need not address arguments that "appear frivolous on their face and could [not] affect the Board's ultimate disposition").

ORDER

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

June 25, 2015

