

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2015-104**

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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. § 425. The Chair docketed the case after receiving the applicant's completed application on May 19, 2015, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated April 1, 2016, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST AND ALLEGATIONS**

The applicant, who received an honorable discharge from the Coast Guard for "unsuitability" on June 18, 1988, asked the Board to correct his record to show that he was separated due to a medical disability. The applicant explained that in July 2012 he was diagnosed with bipolar disorder<sup>1</sup> and he believes that this condition "first presented itself during my military service," when he suffered both depressive and manic episodes. He alleged that the doctors and mental health professionals he consulted while in the Coast Guard failed to recognize and properly diagnose his bipolar disorder. As evidence, he alleged that he had to spend twelve weeks in recruit training, instead of eight; that he went absent without leave (AWOL) for ten days following recruit training; that he attempted suicide; and that he drank alcohol even though he was underage.

**SUMMARY OF THE APPLICANT'S MILITARY RECORD**

On August 12, 1985, the applicant, then 18 years old, enlisted in the Coast Guard. He completed recruit training on November 1, 1985, and was assigned to a cutter.

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<sup>1</sup> Bipolar disorder is a mood disorder characterized by recurrent depressive episodes and manic episodes and sometimes by psychotic or catatonic features. American Psychiatric Association, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FIFTH EDITION (2013) (DSM-V)*, p. 123 *et seq.* The average age at onset is 18. *Id.* at 130. Occupational failure is a common feature and the risk of suicide is high. *Id.* at 131. Under Chapter 5 of the Coast Guard Medical Manual, bipolar disorders are considered physical disabilities disqualifying for military service.

On April 14, 1986, the applicant was counseled in writing by his command about poor hygiene, poor performance, lack of motivation, and a bad attitude.

On his semiannual performance evaluation dated April 30, 1986, the applicant received primarily poor marks (2s and 3s on a scale of 1 to 7). His chief wrote a note stating that the applicant's conduct was below average, that he had learned very little since enlisting, and that he showed no desire to improve, to achieve qualifications, or to advance.

On July 1, 1986, the applicant was counseled in writing about "gross irresponsibility" he had shown "while assigned to attend alcohol rehabilitation." He had repeatedly missed class and been disenrolled. He was also counseled about setting a poor example and a lackadaisical attitude.

On July 9, 1986, the applicant was taken to mast and awarded non-judicial punishment (NJP). He received a disciplinary performance evaluation with some very low marks of 1, 2, and 3 in the performance categories. The applicant's chief wrote a note on this evaluation stating that the applicant sometimes performed well but was very immature.

On December 9, 1986, the applicant reported to his unit after having been AWOL since December 1, 1986.

On January 5, 1987, the applicant was taken to mast for having gone AWOL. He received a disciplinary performance evaluation with very poor marks (primarily 1s, 2s, and 3s on a scale of 1 to 7).

On the applicant's performance evaluation dated April 30, 1987, he received mostly average marks but very low marks (2s and 3s on a scale from 1 to 7) in three performance categories.

On September 1, 1987, the applicant was counseled in writing about his involvement in physical violence against another crewmember.

On April 6, 1988, a psychiatrist prepared a report on the applicant. His command had requested the evaluation to determine the applicant's fitness for retention on active duty after he was disenrolled from RM "A" School due to misconduct. The psychiatrist stated that the applicant had gotten in trouble for going AWOL and underage drinking, and he had been counseled several times about poor motivation, fighting with crewmates, and failing to comply with the alcohol rehabilitation program. He noted that the applicant had previously been diagnosed with an unspecified personality disorder during two separate psychiatric consultations. The psychiatrist stated that the applicant admitted to having been treated for hyperactivity as a child and refused to admit that he abused alcohol. The psychiatrist stated that the applicant did not appear to be depressed but his responses to questions were inappropriate. In addition, "[h]is insight was felt to be essentially absent and his judgment was poor." Testing had shown that the applicant's thought processes were coherent but that he tended to "perceive and interpret things idiosyncratically." The psychiatrist diagnosed the applicant with a "personality disorder not otherwise specified" but with antisocial, schizotypal, and immature traits. The psychiatrist also

diagnosed him as alcohol abusive. The psychiatrist concluded that the applicant had no psychiatric disease or defect that warranted disposition by medical boards, but that his personality disorder was not amenable to treatment and left him unsuited to military training. The psychiatrist recommended that the applicant be administratively separated. A second psychiatrist reviewed and approved this report.

On April 15, 1988, the applicant's CO advised him that he was initiating the applicant's honorable discharge for unsuitability and that he had a right to submit a statement. The applicant acknowledged this notification the same day and declined the opportunity to submit a statement.

On April 19, 1988, the applicant's CO requested authority to discharge the applicant for unsuitability due to a diagnosed personality disorder. The CO noted that the applicant had undergone a psychiatric examination and that the personality disorder was not "the result of any mental or physical disability; therefore, a medical board is not recommended or requested." The CO attached the psychiatrist's report to his memorandum.

On May 6, 1988, Coast Guard Headquarters issued orders for the applicant to be separated for unsuitability with separation code JMB, which denotes unsuitability due to a diagnosed personality disorder.

On May 24, 1988, the applicant was disenrolled from RM "A" School.

On June 9, 1988, the applicant was honorably discharged from the Coast Guard for "unsuitability" with the JMB separation code and an RE-4 reentry code (ineligible to reenlist). He had served two years, nine months, and 20 days on active duty and had 8 days of "time lost" from December 2 through 9, 1986, when he was AWOL.

A memorandum dated April 18, 1991, in the applicant's record shows that he applied to the Discharge Review Board (DRB) to have his reentry code upgraded. He stated that he had been "young and immature and was unsuited to military life. I am now 34 years of age and wish to reenlist." He explained that his first alcohol offense was erroneous because he had not been drinking; he was just depressed about the death of his girlfriend. His second alcohol offense had been due to learning that his step-mother had a terminal illness. He also alleged that he had been led to believe that he was allowed to drink alcohol even though he was underage. He also alleged that he had been misled upon enlistment to believe that he could be a port securityman, which appealed to him because he wanted a career in law enforcement, but he was not allowed to leave the Service when he learned that only reservists are port securitymen.

On June 19, 1991, the DRB denied the applicant's request after finding that his honorable discharge for unsuitability was proper and equitable. In the DRB's letter to the applicant dated June 25, 1991, the DRB advised the applicant of his right to apply to the BCMR.

The applicant's medical records show that he was diagnosed with Bipolar I disorder in May 2012. On January 15, 2014, the Department of Veterans Affairs (DVA) advised the applicant that it had determined that his bipolar disorder, post-traumatic stress disorder, alcohol abuse, and heart condition were not service-connected.

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

On November 4, 2015, the Judge Advocate General (JAG) submitted an advisory opinion in which he recommended that the Board deny relief in this case for untimeliness but, if not, for lack of merit.

The JAG stated that the applicant has failed to meet his burden of proof by submitting evidence to show, by a preponderance of the evidence, that the Coast Guard committed an error in diagnosing and discharging him. The JAG noted that the applicant was diagnosed with bipolar disorder until more than 20 years after his discharge and that the DVA has determined that his disorder is not service connected. The JAG concluded that the applicant has not overcome the presumption of regularity accorded his discharge for unsuitability due to a diagnosed personality disorder.

The JAG attached to the advisory opinion the opinion of a psychiatrist, in accordance with 10 U.S.C. § 1552(g). The psychiatrist stated that she had reviewed the applicant's medical records, and she provided a chronological summary. She stated that she believes that "the characterization of the applicant's discharge in 1988 was proper," based on the medical records at the time. She noted that the applicant had been counseled several times but was unable to improve his performance and that several doctors had diagnosed him with a personality disorder and alcohol abuse. She stated that there "was no evidence that the applicant had a bipolar illness before or at the time of his discharge. According to this medical record, if he even had depressive symptoms, they were not severe, and there are no entries describing any hypomania or mania." She noted that some patients who are initially diagnosed with depression develop a bipolar disorder as they age, especially those with a family history of bipolar disorder, but that there is no way to predict this.

### **RESPONSE TO THE VIEWS OF THE COAST GUARD**

On November 12, 2015, the Chairman sent the applicant a copy of the advisory opinion and invited him to respond within thirty days. No response was received.

### **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 10 U.S.C. § 1552. The record indicates that the applicant has exhausted his administrative remedies because he applied to the DRB.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error in his record.<sup>2</sup> The applicant was diagnosed with bipolar disorder in

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<sup>2</sup> 10 U.S.C. § 1552(b).

May 2012 and the Board received his DD 149 in August 2012. Therefore, he applied within three years of his discovery of the alleged error in his record, and his application is timely.

3. The applicant alleged that his discharge for unsuitability due to a diagnosed personality disorder is erroneous and unjust. 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.<sup>3</sup> 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."<sup>4</sup>

4. The applicant alleged that his diagnosis with a personality disorder in 1988 was erroneous and that he should have been diagnosed with bipolar disorder and processed for a physical disability separation. Although the applicant was diagnosed with bipolar disorder in May 2012, there is no evidence in the record that he suffered from bipolar disorder while on active duty in the Coast Guard. The records show that while on active duty, he was evaluated by more than one psychiatrist and was repeatedly diagnosed with a personality disorder and alcohol abuse. In addition, pursuant to 10 U.S.C. § 1552(g), a psychiatrist has reviewed his records and found "no evidence that the applicant had a bipolar illness before or at the time of his discharge." Therefore, the Board finds that the applicant has not proven by a preponderance of the evidence that his diagnosis was erroneous.

5. The record shows that after the applicant was diagnosed with a personality disorder, which interfered with his performance of duty, attitude, and motivation, he was processed for an honorable, administrative discharge for unsuitability in accordance with Article 12-B-16 of the Personnel Manual then in effect. In accordance with the provisions of Article 12-B-16, he was notified of the reason for his proposed discharge and offered an opportunity to object and to submit a statement. The record shows that he acknowledged this notification and waived his right to submit a statement. Therefore, the Board concludes that the applicant received all due process with respect to his discharge from the Coast Guard. His DD 214 accurately reflects his discharge for "unsuitability."

6. Accordingly, relief should be denied because the applicant has not proven by a preponderance of the evidence that his honorable discharge for unsuitability due to a diagnosed personality disorder was erroneous or unjust.

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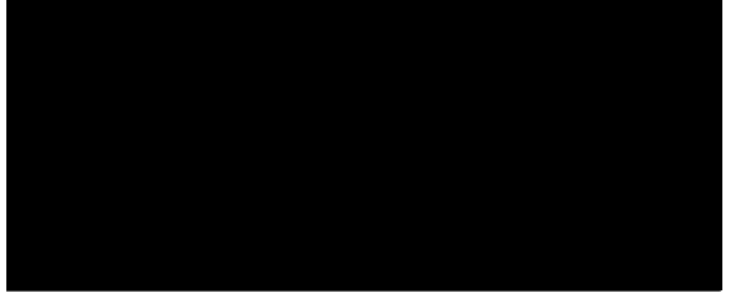
<sup>3</sup> 33 C.F.R. § 52.24(b).

<sup>4</sup> *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

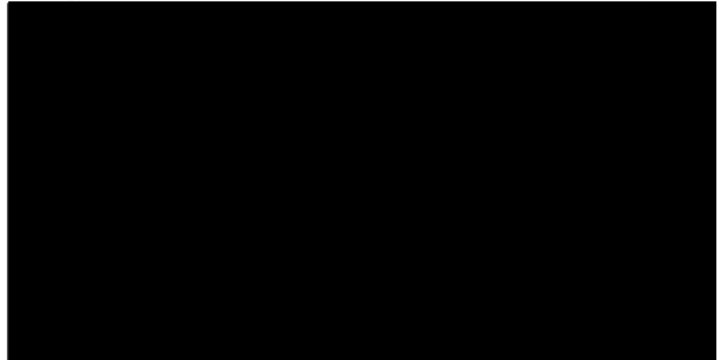
**ORDER**

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

April 1, 2016



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\* This member participated in the deliberations telephonically and so was unavailable to sign but approved the decision and order.