

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-106

FINAL DECISION

████████ Chairman:

This is a proceeding under section 1552 of title 10, and section 425 of title 14, United States Code. It was commenced on April 29, 1999, upon the Board's receipt of the applicant's request for correction of her military records.

This final decision, dated February 24, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant asked the Board to "change [her] reenlistment code from RE4 to RE3.¹

SUMMARY OF RECORD

The applicant, a former seaman recruit (SR; pay grade E-1) admitted she used illegal drugs (marijuana) after she was accepted by the Coast Guard and before she "actually" left for basic training. She entered the Coast Guard on September 21, 1998. On October 16, 1998, she was discharged "after being identified as a user of an illegal substance as evidenced by a positive urinalysis test conducted upon arrival [at the] training center." In addition to receiving a general discharge by reason of misconduct, she received a RE-4 Reentry Code. (An RE-4 Code makes one ineligible to reenlist in any military service.)

The applicant alleged that she was told she would have to wait six months before attempting to reenlist in the Coast Guard. During her six-month period, she attended community college, and she lived a drug-free life. She characterized her current application as "simply asking for a second chance." If given that chance, she said that she "would take the opportunity more seriously than anything [she has] ever done." She did not allege that the Coast Guard committed an error, but she suggested that it

¹ An RE-4 reenlistment code means that a person can not reenlist in any military service. An RE-3 code means that a person can reenlist if he or she meets particular conditions.

was unjust not to give her a second chance in view of her "strong regret" that she used marijuana before she left for basic training .

On October 13, 1998, she was notified that action had been initiated to discharge her by reason of misconduct. On the same day, the applicant waived her right to submit a statement and waived her right to speak with a military lawyer.

VIEWS OF THE COAST GUARD

On December 27, 1999, the Chief Counsel of the Coast Guard recommended to the Board that relief be denied the applicant. He stated that no error or injustice was committed in this case.

The applicant enlisted in the Coast Guard on August 31, 1998. On that date, she signed a CG-3307 administrative remark that stated in part that "I also understand that upon reporting to Recruit Training, I will be tested by urinalysis for the presence of illegal drugs. If my urine test detects the presence of illegal drugs, I will be subject to immediate general discharge by reason of misconduct." On October 16, 1999, she was awarded a general discharge by reason of misconduct resulting from a positive urinalysis test and assigned an RE-4 reenlistment code.

The Chief Counsel asserted that the Coast Guard followed its own regulations when it discharged the applicant.

The Chief Counsel also concluded that there is no injustice in the applicant's discharge. He asserted that she was forewarned that she would be tested for illegal substances upon reporting for basic training; she was informed on that date of the consequences of a positive urinalysis test; and she signed an administrative remark acknowledging Coast Guard policy. The Chief Counsel said that her discharge was effected in furtherance of "the compelling need for armed forces personnel to remain free of illegal substances."

RESPONSE OF THE APPLICANT

On January 4, 2000, the Board sent the applicant a copy of the views of the Coast Guard on this matter and notified the applicant that she could submit a response to the Coast Guard's views within 15 days of the notification.

No response was received from the applicant within the deadline.

FINDINGS AND CONCLUSIONS

The BCMR makes the following findings and conclusions on the basis of the submissions of the applicant and of the Coast Guard, the military record of the applicant, and applicable law:

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1. The BCMR has jurisdiction of the matter pursuant to section 1552 of title 10, United States Code. The application is timely.

2. The Chairman has recommended to the Board, pursuant to section 52.31 of the rules of the Board, that the case be decided on the merits without a hearing. The Board concurs with that recommendation.

3. The applicant did not prove, by a preponderance of the evidence, that the Coast Guard committed an error or injustice in discharging her by reason of misconduct due to a positive urinalysis test.

4. The applicant signed an administrative remarks entry on August 31, 1998, indicating that she would be tested by urinalysis for illegal drugs upon reporting for basic training, and that she would receive an immediate general discharge by reason of misconduct if the test revealed the presence of an illegal substance.

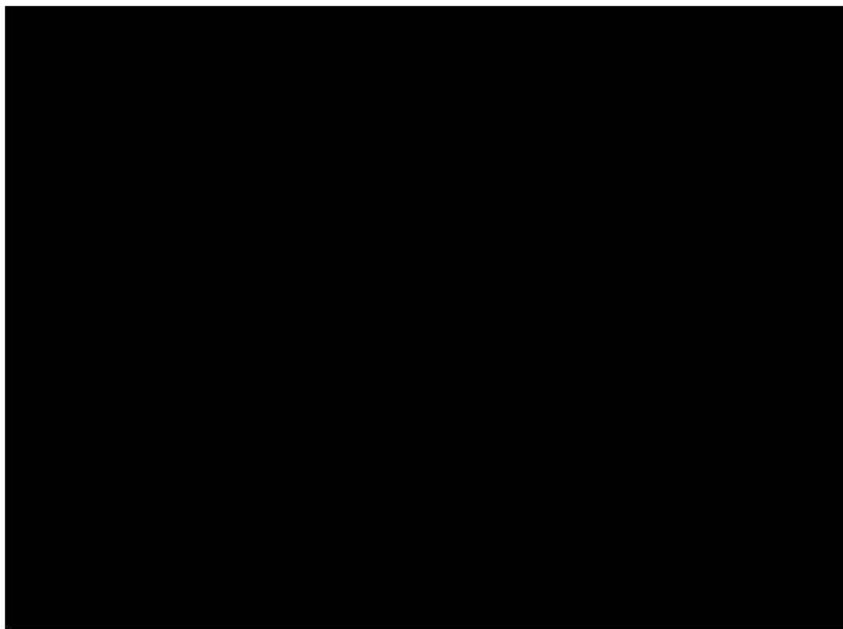
5. On or about September 21, 1998, the applicant tested positive for marijuana, an illegal substance, as a result of a urinalysis test. On October 16, 1998, she was discharged for misconduct and assigned an RE-4 reenlistment code.

6. Accordingly, the application should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application to correct the military record of former USCG, is denied.



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