


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-057

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 application was docketed on January 20, 2004, upon receipt of the applicant's completed application and military records.

This final decision, dated November 17, 2004, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant, who had prior active and reserve Navy service and prior active and reserve Coast Guard service, began a period of active duty in the Coast Guard on September 1, 1999, and was honorably discharged on July 20, 2001, by reason of personality disorder, with a JFX (personality disorder) separation code, and with a RE-4 (not eligible for reenlistment) reenlistment code. His most recent period of active duty totaled one year and one day. However, he has served a total of eight years, five months, and 13 days on active duty during his military career.¹

The applicant initially requested that the BCMR order the Coast Guard to convene a medical board to investigate whether certain injuries and diseases (major depression, panic disorder with agoraphobia, and left ankle instability) left him unfit for

¹ There is disagreement between the applicant and Coast Guard as to whether the applicant was a member of the regular Coast Guard during this last period of active duty.

duty and therefore unfit for separation. He also requested at that time that his record be corrected to show that he was medically discharged from the Coast Guard and that he be assigned the appropriate corresponding separation and reenlistment codes.

Subsequent to filing his application with the Board, the applicant received additional relief from the Department of Veterans Affairs (DVA), which included recognizing injuries/diseases to the left ankle, back, and right knee as service connected disabilities. His combined DVA disability rating was increased from 50% to 60%. After receiving the increased disability rating, the applicant amended his correction application and asked the Board to correct his DD Form 214 to show that he was discharged from the Coast Guard for medical reasons rather than for a personality disorder. He further requested that the Board upgrade his RE-4 (not eligible for reenlistment) reenlistment code to RE-3 (eligible for reenlistment, except for disqualifying factor). The applicant also stated, "I seek for relief from the Board in regards to the Honorable Discharge Certificate DD Form 256." The applicant's amended correction application did not include a request for a medical board.

APPLICANT'S ALLEGATIONS

The applicant alleged in his amended application that he was never diagnosed with a personality disorder and he never received non-judicial punishment. He stated that he was diagnosed with having attention deficit hyperactivity disorder (ADHD) and not with having a personality disorder. He stated that if the Coast Guard had used the DSM-IV, they would have known that there is no relationship between ADHD and personality disorder. He stated that being labeled as having a personality disorder has adversely affected his civilian employment opportunities.

SUMMARY OF THE RECORD

The applicant, as a reservist, began an extended active duty contract on September 1, 1999.² In March 2000 the applicant suffered a left ankle injury on which reconstructive surgery was performed in October 2000. He was treated with four weeks of physical therapy and released by his doctor on December 22, 2000.

A medical note dated December 21, 1999, indicated that the applicant was being treated with the drug Prozac. The applicant stated that during the winter (2000) months, he began seeing a doctor for depression because of problems related to his ankle injury and seasonal depression. A medical note dated January 21, 2000, indicated that the applicant's command was concerned that the applicant was being treated with Prozac. The physician wrote in that note that the applicant "does think he wants to go off Prozac

² According to his DD Form 214, the applicant began a period of active duty in the Coast Guard on July 20, 2000.

this summer, so that the Coast Guard will allow him to go out on search and rescue missions."

The applicant underwent a medical examination that began on February 26, 2001, and terminated on May 25, 2001. On the Report of Medical Examination dated February 26, 2001, block 16., which is labeled "purpose of examination," contained the typed words "periodic/replacement" and the hand written words "separation fit for duty." In block 43 the physician noted the following defects and diagnoses: left chronic ankle pain and back pain. The physician recommended that the applicant have an orthopedic evaluation of the left ankle. Block 42 of the report noted that there was an addendum to the medical examination dated May 16, 2001, and it also noted that the applicant had been diagnosed with depression, panic disorder, and ADHD, and that he had been the subject of a limited duty board. On the medical report, the applicant was marked as both qualified and not qualified "to perform the duties in rate at sea and on foreign shores". This Board assumed that the not qualified block was checked as a result of the February examination and the qualified block was marked as a result of the May examination³. The report is stamped with a statement dated May 25, 2001, signed by a hospital service chief (E-7) that the applicant "met the physical standard for discharge."

On March 5, 2001, the applicant's officer-in-charge (OIC) requested a fit for full duty evaluation of the applicant. He stated that

[the applicant] is still feeling discomfort and continues to stress the repaired area. Command concerns are whether or not [the applicant] will be able to operate small boats as required by his job. Our RHIB is operated in a stand-up position. Member is also experiencing back and knee pain.

On March 22, 2001, the applicant's command requested that a Navy psychiatrist evaluate the applicant to determine whether he suffered from ADHD or depression. The psychiatrist diagnosed the applicant as having ADHD. The applicant was placed on Effexor and returned to full duty. He was supposed to return to the clinic within two weeks to complete the evaluation.

On March 25, 2001, the applicant reported to a Navy hospital stating that he "came to be admitted to figure out my medication." According to the medical history on the Discharge Narrative dated March 30, 2001, the applicant saw a psychiatrist in January 2001 and was prescribed Prozac. According to the summary, the applicant stopped taking Prozac and was subsequently restarted on Serzone and prescribed Adderall at 5 mg a day, which he increased to twice per day on his own. The narrative

³ The applicant stated in a submission to the BCMR that that "[o]n 16 May 2001, I was sent to the Naval Great Lakes Medical Clinic to receive my discharge physical."

noted the applicant had had some outburst of anger but denied suicidal or homicidal ideation. It described the applicant's mental status upon admission as follows:

The patient was a tall, thin white male, wearing hospital pajamas. The patient was cooperative and had good military bearing. He had no psychomotor agitation or retardation. The patient's eye contact was good. The patient's speech was somewhat increased in rate, but not pressured. It was normal in volume and tone. The patient's mood was "okay." The patient's affect was neutral, but full, appropriate to content and nonlabile. The patient's thought processes were logical, linear and goal directed. There was no flight of ideas or looseness of association. The patient's thought content was without any current suicidal ideation or homicidal ideation. The patient was focused on his motivation to continue in the Coast Guard. There was no evidence of psychosis. The patient was alert and oriented times three. The patient's insight was good. The patient's judgment and impulse control are currently not impaired.

The Narrative Summary upon discharge provided the following with respect to the applicant's hospital course.

The patient was admitted [and] afforded group, individual and milieu therapy. The patient was cooperative on the unit and was not a management problem. Throughout his hospitalization, he denied any suicidal ideation or homicidal ideation. Although he did feel anxious and have some minor panic attacks. [N]o severe panic attacks were noted. The patient's mood and affect remained mostly euthymic throughout his hospitalization. The patient's medications were stopped and he was begun on Paxil 20 mg . . . He tolerated this without difficulty. The wife was spoken to again regarding information. She confirmed his occasional passive death wishes but denied any overt suicidal threats. She also again confirmed that he had never physically abused her or threatened to abuse her but that he would have frequent anger outbursts. The patient was confronted with this and stated that he desired anger management. . . . The patient was pleased that he was recommended fit for duty. The command was contacted and liaised with both directly and through the Coast Guard liaison and they understood this recommendation . . .

FINAL DIAGNOSIS(ES):

AXIS: 1. Major Depressive Disorder, single episode, in partial remission, did not exist prior to entry, non-disabling.

2. Panic Disorder with Agoraphobia, existed prior to entry, non-disabling.

3. Attention Deficit Hyperactivity Disorder, existed prior to entry, non-disabling.

AXIS II: Obsessive Compulsive traits

AXIS III Back pain and Dermatitis

AXIS IV Marital difficulties and routine military service . . .

RECOMMENDATION PLAN:

2. The patient was discharged back to the Coast Guard fit for full duty.
3. Condition: Stable
4. Medications: Paxil 20 mg pr qhs . . .
6. The patient is to follow up through HS1 [B] . . . to arrange his own follow-up.

The record indicates that the applicant's ankle was evaluated on April 10, 2001, by the orthopedic department at a Naval hospital. A document labeled Report of Medical Board stated that the applicant was diagnosed with left ankle instability. The report indicated that x-rays taken on the day of examination showed "two metallic bone suture anchors in his fibula, which appear to be well-positioned. There is no other skeletal abnormality noted." The Medical Board found the applicant fit for duty, but placed him in a limited duty status for eight months, restricting him from driving a boat in a standup position. The Medical Board recommended a prolonged period of physical therapy and an ankle support, and further stated: "Ultimately, should [the applicant] desire further stability of his ankle, a lateral ankle reconstruction . . . may be indicated."

On April 16, 2001, the applicant was advised by his commanding officer (CO) that the CO had initiated action to discharge him from the Coast Guard due to unsuitability because he had been diagnosed with ADHD. The applicant was advised that he could write a statement in his own behalf objecting to the discharge. The applicant, by his signature, stated that he did not object to the discharge and that he intended to submit a statement.

In an April 16, 2001, letter to the Commander, Coast Guard Personnel Command (CGPC), the applicant's OIC requested that the applicant be discharged by reason of unsuitability due to ADHD.

On April 20, 2001, the applicant prepared a written statement in response to the proposed discharge. He stated that he did not object to the discharge but he wanted to document the fact that he had incurred an ankle injury while on active duty. In this regard, he stated that he had surgery on the ankle and that he had completed 4 weeks of physical therapy and was released from the surgeon's care on December 22, 2000. However, the applicant stated that he continued to have instability and pain in the ankle and that a fit for duty evaluation determined that he suffered from ankle instability. The applicant wrote that he was postponing surgery on the ankle and that he would seek a medical opinion from the Department of Veterans Affairs after his discharge.

A Report of Medical History dated May 16, 2001 was completed by the applicant and reviewed by Dr. I. A Report of Medical Assessment was also completed by the applicant and reviewed by Dr. I. The applicant reported on these documents that he suffered from several medical problems, including problems with the ankle, back, knee, stomach, depression, and panic disorder. However, Dr. I did not indicate on his portion of these documents that any of these conditions caused the applicant to be unfit for separation.

On June 1, 2001, CGPC advised the applicant's command that because the applicant had more than eight years of service he was entitled to have his case considered by an administrative discharge board (ADB), unless the applicant waived such right after consulting with a lawyer.

In an undated letter, the applicant signed a statement waiving his right to a hearing before an ADB. The applicant acknowledged that he voluntarily signed the statement after having been counseled by a lawyer. The lawyer signed the waiver statement, as did a witness.

On June 18, 2001, the waiver was faxed to CGPC. The fax cover sheet stated the following: "Member [the applicant] has signed waiver and is trying to make college enroll[ment] in Louisiana. Request discharge ASAP."

On June 21, 2001, CGPC directed that the applicant be discharged from the Coast Guard by reason of unsuitability with a JFX (personality disorder) separation code and an RE-4 reenlistment code.

The applicant was discharged on July 20, 2001.

Department of Veterans Affairs (DVA) Ratings

After his discharge from the Coast Guard the applicant applied to the DVA for treatment and compensation. Initially, the DVA gave the applicant a combined overall 40% disability rating for major depressive (30%), limited motion of ankle (10%), tinnitus (10%), and hearing loss (0%). In July 2002, the DVA gave the applicant a 10% disability rating for duodenitis with gastric reflux, increasing the applicant's overall rating to 50%. On October 3, 2003, the DVA amended its decision and granted the applicant a combined overall 60% percent disability rating for major depressive disorder; spondylosis of the lumbosacral spine at level L5; chronic left ankle injury instability; tinnitus; duodenitis with gastric reflux; scar, residuals, left ankle; medial meniscus tear, right knee; and left ear hearing loss.

VIEWS OF THE COAST GUARD

On May 3, 2004, the Judge Advocate General (TJAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant partial relief to the applicant. In this regard, he agreed with the Commander, Coast Guard Personnel Command (CGPC) that the applicant's record should be corrected to show that he was discharged by reason of physical disability, with a JFN (disability, existed prior to enlistment) separation code and a RE-3P reenlistment code. CGPC also recommended that Block 2 on the DD Form 214 be corrected to show that the applicant was a member of the Coast Guard Reserve rather than the regular Coast Guard. In recommending partial relief, CGPC stated the following:

While unresolved ADHD is grounds for administrative separation from the service, the Coast Guard's decision to separate the Applicant for this reason was in error. Regrettably, this error unjustly deprived the Applicant of his due process right to an evaluation of his diagnosed major depression and panic disorder through, at a minimum, an Initial Medical Board, and possible further processing in the Physical Disability Evaluation System (PDES). Although the psychiatrist found that the Applicant's single episode of major depression was in remission, and that his panic disorder existed prior to entry into the service, and that these conditions were non-disabling, the final determination on these matters [is within] the purview of the medical board process and the PDES.

The applicant specifically requested that his DD-214 be corrected to reflect discharge for medical reasons, instead of personality disorder, as this has caused him problems with potential employers. I believe this specific request for relief is reasonable and appropriate. Potentially, the Applicant is entitled to the additional relief of having his disabilities evaluated by a Central Physical Evaluation Board to officially determine service

connection, percentage of disability at the time of separation, and possible entitlement to retirement or severance pay. However, based on the following information from the record, I do not believe it is in the Applicant's best interest to receive any relief beyond his specific request:

a. It is evident that the Applicant concealed his history of depression, anxiety and ADHD . . . when he enlisted in the Coast Guard Reserve . . . This could have led to his discharge for fraudulent enlistment, with no entitlement to processing through the PDES, and possible loss of some veteran's benefits . . . This information would certainly be considered in the processing of any CPEB convened in determining whether the Applicant is entitled to disability benefits from the Service. The Coast Guard does not reward people for concealing information about pre-existing conditions that may have been aggravated by military service.

b. Under any circumstance, the Applicant is receiving the maximum benefits he is entitled to for his conditions through the VA. Accruing any additional benefits . . . as the result of CPEB proceedings is highly doubtful, because of the strong evidence that his conditions pre-existed entry into the service.

CGPC stated that there is no specific Separation Program Designator (SPD) code authority for separating a member due to a disability that existed prior to service in the absence of the findings of an actual medical board. He further stated that no benefit would be gained, nor would it be in the applicant's interests, to convene a medical board in this case. Accordingly, he recommended that the JFN separation code be used in this case.

With respect to the applicant's component at the time of his discharge, CGPC stated that the applicant was a member of the Coast Guard Reserve, even though he was serving on active duty at the time of his discharge.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 3, 2004, the BCMR received the applicant's reply to the views of the Coast Guard. He stated that the correction of his DD Form 214 was his most important concern. In this regard, he stated that there "is no good cause for a personality disorder designation on [his] DD Form 214."

The applicant stated that his next concern is "to have [his] due process." He stated that he was discharged improperly and believes he "should have had received some form of medical discharge." He stated that he recently (2004) had a second ankle

surgery, and that his ankle condition, major depression, and panic disorder should have been attended to properly before his discharge.

The applicant stated that the Coast Guard is attempting to use a statement made during his mental examination in 2001 to prove that he fraudulently enlisted in 1997. He stated that the Coast Guard is using his statement to Dr. B that he has been "depressed most of his life, with poor concentration, difficulty in school, and continuous feelings of anxiety since adolescence" to prove the "no" answer he gave to the question "have you ever had or have you now depression or excessive worry? Nervous trouble of any sort?" was fraudulent. The applicant further stated:

I did not know what depression was until I spoke with Doctor [B] in March 2001. I told him my statement after he told me what depression was and how it affects people. I also did not know prior to 2001 that I had ADHD, I was never diagnosed with this condition until after I entered the Coast Guard.

So, back in 1997 when I was asked to answer that question, I said no. I just dealt with my things in my life, its called "learning to cope and deal with your difficulties . . . To which each person does the best way they know how. I DID NOT KNOW THAT IT WAS DEPRESSION OR ANXIETY, WHEN I FILLED OUT THE FORM BACK IN 1997.

The applicant stated that he was in the Reserve on extended active duty in the Coast Guard from September 1999 to July 2000. He stated that he enlisted in the regular Coast Guard in July 2000 where he served until his discharge in July 2001. He stated that it is not fair to correct his DD Form 214 to show United States Coast Guard Reserve (USCGR).

The applicant complained about the manner in which he was treated during his separation physical. He stated that when he was first examined for separation on February 26, 2001, a Dr. I noted that because the applicant was on limited duty for his ankle and because he had major depression, panic attacks, ADHD, and back and knee problems he required further evaluation prior to discharge.⁴ The applicant alleged that when he returned to his unit with the medical evaluation performed by Dr. I, the group's hospital services technician became upset and sent the separation examination documents for review by a flight surgeon. He stated however, that a health service chief (E-7) actually signed the medical evaluation. The applicant further charged that he never signed the following statement on the medical examination report: "I have

⁴ The record indicates that the applicant's fit for duty examination with respect to the ankle occurred on April 10, 2001 subsequent to the February 2001 medical examination. The major depression and panic disorder diagnoses also occurred after the February 2001 medical examination.

been informed of and understand the provision of Article 15-29 of the Manual of the Medical Department."⁵ The applicant alleged that he was not aware of these inaccuracies until he reviewed his medical record after his discharge.

The applicant stated that he would accept medical benefits for those conditions he incurred on active duty and were present when he was discharged. "I was injured in the military and I feel that it is their duty to take care of my conditions."

APPLICABLE LAW

Personnel Manual (COMDTINST M1000.6A)

Article 12.B.12 of the Personnel Manual lists condition not a disability as a basis for a convenience of the government discharge. Examples of such conditions are enuresis and somnambulism.

Physical Disability Evaluation System (PDES) Manual

Article 3.D. states that an Initial Medical Board shall be convened in the following situations: "1. Detection of a physical impairment preexisting enlistment or appointment in the Coast Guard ... 8. In any situation where fitness for continuation of active duty is in question."

Medical Manual (COMDTINST M6000.1B)

Article 5.B.2. lists the following as personality disorders: Paranoid, Schizoid, Schizotypal, Obsessive Compulsive, Histrionic, Dependent, Antisocial, Narcissistic, Avoidant, Borderline, and Personality disorder NOS (includes Passive-aggressive).

Article 5.B.17 states that members of the Coast Guard with conditions such as ADHD shall be processed in accordance with Article 12 of the Personnel Manual. ADHD is described in this section as a "Disorder Usually First Evident in Infancy, Childhood, or Adolescence."

Separation Program Designator Handbook

The Separation Program Designator (SPD) Handbook authorizes the assignment of an RE-3G or an RE-4 reenlistment code with the JFV separation code. The SPD Handbook states that the JFV separation code for "condition, not a disability" is appropriate when there is an "[i]nvoluntary discharge directed by established directive

⁵ There are no Articles 15-29 of the Medical Manual.

when a condition not a physical disability, which interferes with the performance of duty (Enuresis, motion sickness, allergy, obesity, fear of flying, et al.) [exists]."

The SPD Handbook explains that a JFN separation code means an "Involuntary discharge directed by established directive (No board entitlement) for physical disability which existed prior to entry on active duty and as established by a medical board."

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. The application was timely.

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.

3. The Coast Guard admitted, and the Board agrees, that it committed an error by discharging the applicant without having convened a medical board to ultimately rule on the issue of whether the applicant's panic disorder with agoraphobia existed prior to enlistment. Article 3.D.1. of the Physical Disability Evaluation System (PDES) Manual states that a medical board shall be convened when there is a "[d]etection of a physical impairment preexisting enlistment or appointment." However, this Board finds that although a medical board was not convened in the applicant's case, he was afforded two other opportunities to object to his discharge, wherein he could have set forth his contentions that his panic disorder did not exist prior to his enlistment and/or that he was suffering from other disabling conditions. Those opportunities were (1) when the CO advised him in April 2001 that he could object to his discharge in a written statement, and (2) when he waived his right to an ADB in June 2001. Although these due process rights did not emanate from the PDES process, they were avenues available to the applicant that could have been used to challenge the basis and reason for his discharge. Had the applicant made objections to his discharge and claimed that he was disabled due to depression, panic disorder, and ankle instability, it would have been incumbent upon the Coast Guard to address his concerns.

The applicant never denied that he was aware of his diagnoses prior to discharge. In his April 2001 statement not objecting to his discharge, he spent considerable time outlining the history and treatment of his ankle injury. He even stated that he was postponing surgery on his ankle and would seek a medical opinion

from the DVA after his discharge. However, at no time in the statement did he request a discharge by reason of physical disability or to remain on active duty for treatment. Rather than challenging ADHD as the basis for discharge before an ADB, the applicant waived his right to the ADB after consulting with a lawyer about his options. Moreover, had the applicant chosen an ADB, he would have been entitled to a hearing and representation by a military counsel. Therefore, this Board is persuaded that the applicant was provided with sufficient due process prior to his discharge to challenge the basis and reason for his separation. He has not offered a persuasive reason or explanation why he should have another opportunity to challenge his discharge, and the Board will not direct that he receive one. Based upon the coversheet to the telefax of his ADB waiver to CGPC, the applicant was anxious to be discharged so that he could enter college. The Board finds that whatever due process was denied the applicant under the PDES system was cured through the due process afforded to him with respect to his administrative discharge under Article 12 of the Personnel Manual.

4. In light of Finding 3., the only remaining issue before the Board is whether the applicant's DD Form 214 is in error by listing personality disorder as the reason for his discharge. Under Article 5.B.17. of the Medical Manual, the applicant's diagnosed ADHD was a proper basis on which to administratively separate him from the Coast Guard. However, ADHD is not a personality disorder. See Articles 5.B.2 and 5.B.17. of the Medical Manual; Diagnostic and Statistical Manual of Mental Disorders (DSM IV), 4th edition, p. 85. Therefore, the Board agrees with the Coast Guard that it committed an error by listing personality disorder as the reason for discharge on the applicant's DD Form 214.

5. While the Board agrees that the reason for discharge stated on the applicant's DD Form 214 is erroneous and should be corrected, the Board does not agree with the Coast Guard, that the corrected reason should be "physical disability that existed prior to enlistment." In this regard, neither the applicant nor the Coast Guard has presented any evidence, and the Board is aware of none, which lists ADHD as a condition for which a physical disability discharge may be granted. The Medical Manual does not require processing for ADHD under the Physical Disability Evaluation System. See Article 5.B.17 of the Medical Manual. Therefore, listing disability that existed prior to enlistment as the reason for the applicant's discharge on the DD Form 214 would not be accurate under the circumstances of this case. Moreover, such a correction would suggest that ADHD is a physical disability, which it is not.

6. Therefore, the Board finds that the more appropriate reason for the applicant's discharge is condition not a disability that interferes with the performance of duty, that JFV is the more appropriate separation code, and that convenience of the government, pursuant to Article 12.B.12. of the Personnel Manual is the more appropriate separation authority. The applicant in BCMR 2003-079 was discharged because of ADHD and his DD Form 214 listed personality disorder as the reason for discharge. In that case, the

BCMR directed the applicant's DD Form 214 be corrected to show that he was discharged by reason of condition, not a physical disability, rather than personality disorder. The Board finds that such relief is appropriate in this case.

7. The Separation Program Designator Handbook permits either an RE-3G or an RE-4 reenlistment for a discharge by reason of condition not a physical disability. The Board finds that an RE-3G (condition not a disability) is the correct reenlistment code in this case because no basis exists for awarding the applicant an RE-4 reenlistment code. The RE-3G is a code for which a waiver can be obtained. However, the applicant would be required to submit proof that he is no longer suffering from this condition in order to reenlist in the military.

8. By way of explanation, Article 2.C.2.b. of the PDES Manual states, "The law that provides for disability . . . separation . . . is designed to compensate a member whose military service is terminated due to a physical disability that has rendered him or her unfit for continued duty." Article 2.C.2.a. states that the sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of one's rank or rating. The applicant has not presented persuasive evidence that if a medical board had been convened prior to his discharge, he would have received a discharge by reason of physical disability. In this regard, the Board notes the following with respect to the applicant's diagnosed medical conditions at the time of his discharge:

a. ADHD and compulsive/obsessive personality disorder are not physical disabilities and therefore could not be the basis of a physical disability discharge. Article 2.A.7. of the PDES Manual states that character disorders and intelligence disorders are not physical disabilities, although they may result in a member's administrative separation under the Personnel Manual, and Article 5.B.17 of the Medical Manual states that ADHD shall be processed in accordance with Article 12 of the Personnel Manual.

b. The applicant had a fit for full duty examination (limited duty medical board) related to his ankle prior to discharge and was found fit for duty, although he was placed on limited duty for an eight month period and left with a recommendation for elective surgery, if he desired to gain greater stability in the ankle. However, Article 2.C.2.e. of the PDES Manual states that "[a member] convalescing from a disease or injury which reasonably may be expected to improve so that he or she will be able to perform the duties of his . . . rank or rating in the near future may be found fit for duty." There is no evidence that at the end of the eight-month limited duty period the applicant was not fit for full duty. The fact that he had surgery on the ankle three years after his discharge from the Coast Guard does not establish that at the end of his limited duty period he would not have been fit to perform the duties of his rate.

c. Although the applicant was diagnosed with major depression and panic disorder, they were determined to be non-disabling. According to 2.C.2.i. of the PDES Manual, impairments do not necessarily render the member unfit for military duty. As in this case, although the applicant was diagnosed with major depression and panic disorder prior to his discharge, the psychiatrist stated that the conditions were non-disabling. There is no evidence in the record that the applicant was unfit for continued duty as a result of these conditions.

d. The fact that the applicant received a disability rating from the DVA for major depression and limited ankle motion does not mean that a medical board would have found him unfit for continued duty prior to his discharge. In Lord v. United States, 2 Cl. Ct. 749, 754 (1983), the Court of Federal Claims recognized the differences between the DVA and the Armed Forces disability systems. The Court stated, "The Veterans Administration determines to what extent a veteran's earning capacity has been reduced as a result of specific injuries or combination of injuries. [Citation omitted.] The Armed Forces, on the other hand, determine to what extent a member has been rendered unfit to perform the duties of his office, grade, rank, or rating because of a physical disability. [Citation omitted.] Accordingly, Veterans' Administration ratings are not determinative of issues involved in military disability retirement cases."

e. There is no indication in the record that any of the other conditions (back, right knee, intestine) rated by the DVA as disabling caused the applicant to be unfit for duty while serving on active duty.

9. The applicant complained that certain improprieties occurred with respect to his medical examination for separation. He stated that when he first reported for his medical examination in February 2001 Dr. I noted his limited duty status, his major depression, panic attacks, and ADHD. However, each of these events or diagnoses happened after the February 2001 medical examination. The limited duty board occurred in April 2001 and the other diagnoses were made in March 2001. The Board is satisfied that the applicant received a proper medical examination for separation.

10. The Board will not order block 2 of the applicant's DD Form 214 corrected to show USCGR. The applicant did not request this change and has objected to it. Moreover, the military record does not clearly establish to the satisfaction of the Board that the applicant was not in the regular Coast Guard at the time of his most recent discharge.

11. Accordingly, the applicant is entitled to partial relief.

[ORDER AND SIGNATURE APPEAR ON NEXT PAGE]

ORDER

The application of _____ USCG, for correction of his military record is granted in part. Specifically, his DD Form 214 shall be corrected to show the following:

Block 25 shall be corrected to show Article 12-B-12 of the Personnel Manual as separation authority.

Block 26 shall be corrected to JFV (condition not a physical disability) as the separation code.

Block 27 shall be corrected to show RE-3G as the reenlistment code.

Block 28 shall be corrected to show convenience of the government as the reason for separation.

The Coast Guard shall issue the applicant a new DD Form 214.

All other requests for relief are denied.





