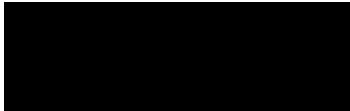


**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2013-062**



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**FINAL DECISION ON FURTHER CONSIDERATION**

This is a further consideration of BCMR No. 2012-087 conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application for further consideration upon the applicant's submission of the additional evidence outlined in Docket No. 2012-087. The application on further consideration was assigned the new docket number, BCMR No. 2013-062, as is the Board's policy.

This final decision or further consideration dated November 22, 2013, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**PRIOR CASE SUMMARY (DOCKET No. 2012-087)**

In the original application, the applicant asked the Board to correct his military record by changing his JFW separation code (failed medical/physical procurement standards) and upgrading his RE-3G reenlistment code (condition not a physical disability interfering with performance of duty), to RE-1 (eligible to reenlist). He also asked to be allowed to return to basic training as soon as possible. He enlisted in the Coast Guard on January 10, 2012, and was discharged on February 3, 2012, after the Coast Guard determined that he had a preexisting medical condition (chronic skin rashes) and did not meet medical accession standards.

The applicant argued that his separation and reenlistment codes were erroneous and should be corrected because the Coast Guard misdiagnosed his minor rash as a serious disqualifying skin condition and prematurely discharged him as result of the misdiagnosis. He stated that during Coast Guard basic training he broke out in a rash and was treated by a Coast Guard physician's assistant (PA) who prescribed Atarax<sup>1</sup> and said that the rash was "dischargeable." The applicant returned to the clinic a few days later after waking up with body aches, nausea, runny nose, coughing, and congestion, and was treated by the same PA who saw him previously. The applicant stated that the PA "looked into a book of rashes and identified

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<sup>1</sup> Atarax is used as a sedative to treat anxiety and tension. It is also used together with other medications given for anesthesia and may also be used to control nausea and vomiting. Atarax is also used to treat allergic skin reactions such as hives or contact dermatitis. At <http://www.drugs.com/atarax.html>

mine as being atopic dermatitis<sup>[2]</sup> and cholinergic urticaria<sup>[3]</sup>, both of which were dischargeable.” The applicant stated that after being seen by the PA, he was interviewed by someone at the clinic while under the influence of his rash medication (Atarax), and was told that he would be treated in the ward until he was sent home. The applicant stated that the rash cleared up by the fourth day and that he couldn’t understand why he was “being sent home.” He also argued that there was miscommunication between him, the PA, and the interviewer while he was under the influence of prescribed sedatives, and that this led to the erroneous diagnosis and discharge from the Coast Guard. Finally, he stated that while reading his personnel file after being discharged he discovered that he had “self-admitted to a pre-existing medical condition that I never had.”

The applicant argued that the only skin problem he ever had prior to enlisting in the Coast Guard was chafing from when he was overweight. He stated that the entire time he was speaking with the Coast Guard PA and the interviewer about his rash, he thought that a “rash and chafing were similar.” The applicant also argued that he was from the hot and humid southeast Georgia and worked in a warehouse unloading and loading trucks and had never broken out in any rashes. Moreover, he stated that he lost fifty pounds to join the Coast Guard and had never broken out with any rashes during the exercise to lose the weight.

The applicant stated that shortly after being discharged from the Coast Guard he went to a civilian allergy and asthma specialist, (Dr. E), and underwent conclusive skin and allergy tests. He stated that Dr. E determined that he had never had atopic dermatitis or cholinergic urticaria, but instead, had acute urticaria<sup>4</sup> from a viral infection and possibly dust mites. The applicant submitted a copy of the history and physical performed by Dr. E on February 14, 2012, and it states that the applicant did not appear to have atopic dermatitis “nor is there any history of that.” Dr. E also stated in his report that the Coast Guard erroneously diagnosed the applicant as having cholinergic urticaria and that he had some mental status changes from the Atarax and became very confused during his interview with Coast Guard medical personnel about the length of time that he had his urticarial rash.

On July 24, 2012, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief. The Coast Guard argued that the applicant was properly discharged after he was found to be disqualified for continued service due to his medical condition and diagnosis of atopic dermatitis and cholinergic urticaria. The advisory opinion noted that the applicant was admitted to a treatment facility for an outbreak of atopic dermatitis and it was determined to be caused by the laundry soap used in training. PSC stated that the applicant had a history of breaking out in a rash with physical activity and that the applicant admitted that he came to recruit training during the winter to avoid this issue. The advisory opinion noted that the applicant did not contest the policy that the Coast Guard used to administratively separate him. Rather, the applicant only desired a more favorable reentry and

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<sup>2</sup> Atopic dermatitis (AD) is the cutaneous expression of the atopic state, characterized by a family history of asthma, hay fever, or dermatitis in 70% of patients. *Braunwald, E., et al., eds., HARRISON’S PRINCIPLES OF INTERNAL MEDICINE, 15th ed. (McGraw-Hill, 2001), p. 309.*

<sup>3</sup> Urticaria (hives) are transient lesions that are composed of a central wheal surrounded by an erythematous halo. Cholinergic urticaria are precipitated by heat, exercise, or emotion and are characterized by small wheals with relatively large flares. *Id at 325.*

<sup>4</sup> Acute urticaria means a brief and severe episode, as opposed to chronic. It has a wide range of allergic etiologies. *Id.*

separation code because he feels his condition subsequently has self-cured. Finally, the advisory opinion noted that the applicant is free to reenlist in any branch of the military if he can “prove the disqualifying factor has been resolved before enlistment can take place.”

The applicant disagreed with the Coast Guard’s advisory opinion because he was seen by a civilian allergist (Dr. E) who determined that he never had the medical conditions diagnosed by the Coast Guard PA. The applicant provided a copy of an August 20, 2012, letter from Dr. E.

The Board made the following pertinent findings and conclusions in Docket No. 2012-087 on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

4. The applicant submitted a statement from an allergist after his discharge from the Coast Guard stating that the applicant most likely suffered from acute urticaria, which is not disqualifying for enlistment. The allergist diagnosed the applicant as having an episode of acute urticaria at recruit training that could have been caused by a viral infection or dust mite exposure. The allergist recommended that the applicant begin dust mite avoidance measures including washing bed linens in the hot water cycle once per week and obtain dust mite proof mattress and pillow encasements. The allergist did not examine the applicant during the outbreak at recruit training, and his letter indicates that he relied on the applicant’s own statements, which contradict the applicant’s statements to the PA. Therefore, the applicant has not proved by a preponderance of the evidence that the Coast Guard’s diagnoses were wrong.

5. The applicant has not proven by a preponderance of the evidence that the physician’s assistant was incorrect in diagnosing him with atopic dermatitis while in recruit training and with a history of cholinergic urticaria. The Board notes that the physician’s assistant was the medical officer who saw and evaluated the applicant’s condition while the rash was active and therefore was in a much better position to diagnose it than the allergist. In addition, the physician’s assistant reported the applicant’s history of outbreaks since the age of 5 as told to him by the applicant. The applicant claims that he made the statement while under the influence of Atarax which could cause some mental confusion. Even if Atarax did cause the applicant to be somewhat confused, the statements attributed to him by the physician’s assistant are very clear and detailed and do not suggest that the applicant was confused. There is insufficient evidence that Atarax caused the applicant to be so confused that he gave a very detailed false statement to the physician’s assistant about his prior skin rash history.

6. The applicant has failed to prove by a preponderance of the evidence that he was misdiagnosed by the physician’s assistant. Since both acute dermatitis and cholinergic urticaria are disqualifying for enlistment, the Coast Guard properly discharged the applicant under Article 1.B.19.a. of the Separations Manual. The applicant met the requirements for discharge under this provision

because he had served less than 180 days on active duty and he exhibited minor pre-existing medical issues not of a disabling nature which do meet the medical/physical procurement standards in place for entry into the Service.

7. The narrative reason for separation, the separation code, and the Reenlistment code are correct according to the SPD handbook. The RE-3G is not a bar to reenlistment, although the applicant would have to persuade a recruiter that the conditions for which he was discharged no longer exist and are not likely to return.

8. In light of the above, the Board finds that the applicant has failed to prove by a preponderance of the evidence that his discharge was improper. Therefore his application should be denied. However, the Board will grant further consideration if within 180 days the applicant submits additional medical evidence that he has neither atopic dermatitis nor cholinergic urticaria.

#### **CURRENT APPLICATION ON FURTHER CONSIDERATION (BCMR No. 2013-062)**

As in the original application, the applicant asked the Board to correct his military record by changing his JFW separation code (failed medical/physical procurement standards) and by upgrading his RE-3G reenlistment code (condition not a physical disability interfering with performance of duty), to RE-1 (eligible to reenlist).

The applicant submitted a new statement from Physician's Assistant (PA) G of the [REDACTED] Dermatology and Skin center. The PA stated that after a thorough skin examination she found the applicant's skin health to be within normal limits. She stated no dermatographism was evident and there were no signs or symptoms of any rash or urticarial.

The applicant also submitted a statement from an allergist, Dr. H of [REDACTED] Associates. Dr. H wrote that the applicant tested negative for cholinergic urticaria. He stated that the applicant did have some swelling and redness after 15 minutes of exercise but did not experience any hives. He stated that he saw no reason the applicant could not participate in any physical activities.

The applicant submitted several articles obtained from the Internet discussing hives (cholinergic urticaria) and atopic dermatitis. The applicant highlighted comments in the articles which say that urticaria can be caused by the common cold, flu, or coughs. <http://www.medic8.com/healthguide/articles/hivesurticaria.htm1>. One article noted that a diagnosis of cholinergic urticaria is generally based on appearance of the affected area and then confirmed by clinical testing, including exercise under the supervision of health care professionals. <http://onlinedermclinic.com/archives/cholinergic-urticaria>. Another article defined atopic dermatitis as a long-term skin disorder that involves scaly and itchy rashes. <http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0001856/>.

### **VIEWS OF THE COAST GUARD ON FURTHER CONSIDERATION**

On August 2, 2013, the Board received the advisory opinion from the Judge Advocate General (JAG). He stood by the original advisory opinion rendered in the prior case (BCMR No. 2012-087). With regard to the applicant's submission of additional evidence, the JAG stated that "while the documentation presented for [further consideration] is helpful in determining that the applicant no longer has the atypical skin conditions, it does nothing to disprove the diagnosis at the time [of discharge]." The JAG noted that no blood tests were done even though Dr. E, who submitted a statement in the original application, suggested that they be done. The JAG stated that Dr. H's letter is vague because it stated the he tested the applicant through a skin examination and physical exertion, but does not state that the applicant was given any blood tests. The JAG argued that PA G's letter was also vague because it stated only that the applicant's skin examination was within normal limits. The JAG stated that none of the newer documents presented on further consideration relate directly back to the time period the applicant was in training.

The JAG stated that the applicant failed to establish by a preponderance of the evidence that the Coast Guard committed an error or injustice in discharging him, and as such, the Coast Guard recommended denial. However, the JAG further stated that "[i]f the Board determines . . . relief should be granted, the Coast Guard would not object to changing the SPD [separation] code to JND and reenlistment code to RE-1. The SPD code, JND, is appropriate in cases of separation for miscellaneous or general reasons. The RE-1 reenlistment code is appropriate where no infractions are noted in a member's record."

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD ON FURTHER CONSIDERATION**

The applicant stated that he has proven beyond a shadow of a doubt that he does not have cholinergic urticaria and/or atopic dermatitis. He argued that since being discharged from the Coast Guard, he has been evaluated by two allergists and a dermatologist. The three doctors agree that he does not have a skin disorder.

The applicant stated that prior to discharge the Coast Guard canceled his appointment with an allergist because his "skin cleared up." He questioned how he was supposed to prove that he was improperly diagnosed at the time, if he was not examined by a skin specialist. He stated that he cannot go back in time and have that examination. The applicant believes that the rash he had while in recruit training was due to a respiratory infection. He stated that since February 2012, he has not had an upper respiratory infection or a rash of any kind.

The applicant agreed with the advisory opinion's recommendation that, "If the Board . . . determines that relief should be granted, the Coast Guard would not object to changing the SPD code to JND and the reenlistment code to RE-1."

## APPLICABLE LAW

### *Coast Guard Medical Manual (COMDTINST M6000.1E)*

Chapter 3.D.26.b.1. of the Medical Manual states that a current or history of atopic dermatitis or history of residual or recurrent lesions in characteristic areas (face, neck, antecubital and/or popliteal fossae, occasionally wrists and hands) are disqualifying for Coast Guard service.

Chapter 3.D.26.b.1.o. of the Medical Manual states that a current or history of chronic urticaria lasting longer than six weeks or recurrent episodes of urticaria (708.8) within the past two years not associated with angioedema, hereditary angioedema (277.6) or maintenance therapy for chronic urticaria, even if not symptomatic, is disqualifying.

## FINDINGS AND CONCLUSIONS ON FURTHER CONSIDERATION

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission 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 alleged that his uncharacterized discharge due to his failure to meet medical/physical procurement standards was erroneous because it was based upon a misdiagnosis that his skin rash was atopic dermatitis. He also alleged that he was misdiagnosed as having a history of cholinergic urticaria. The applicant denies that he had or has these disqualifying conditions. The applicant was discharged as both conditions are disqualifying for service.
3. A physician's assistant treated the applicant while at recruit training for a skin rash on January 24, 2012, and diagnosed it as atopic dermatitis. During the interview, according to the medical narrative summary, the applicant admitted that he has broken out in an itchy rash after any activity that raises his core body temperature since age 5, and that he would control the symptoms by discontinuing the activity or by some other means. The physician's assistant determined that the applicant had a history of cholinergic urticaria that he did not divulge on his pre-enlistment medical report forms.
4. The Board denied the applicant's application in docket No. 2012-087 because he failed to prove by a preponderance of the evidence that he was misdiagnosed by the physician's assistant. However, the Board granted further consideration "if within 180 days the applicant submit[ed] additional medical evidence that he has neither atopic dermatitis nor cholinergic urticaria."
5. On January 2, 2013, the applicant submitted additional medical evidence from PA G who stated that based upon her thorough skin examination she found no abnormalities and no



signs or symptoms of any rash or urticaria. The applicant also submitted a letter from an allergist, Dr. H who stated that the applicant tested negative for cholinergic urticarial, although he noted that the applicant did have some sweating and redness after 15 minutes of exercise, but he did not experience any hives. Dr. H. stated that he saw no reason that the applicant could not participate in any physical activities. Also Dr. E stated in the original application that the applicant most likely suffered from acute urticaria, which is not disqualifying for enlistment.

6. The Board in the earlier case gave considerable deference to the PA's evaluation of the applicant because it was contemporaneous with the events. However, the Board notes that the Coast Guard did not have the applicant examined by a dermatologist or allergist prior to discharge. In contrast, the applicant has submitted three letters from medical professionals stating that, based upon their examinations of the applicant, he does not have atopic dermatitis or cholinergic urticaria. The allergist who examined the applicant immediately after discharge disagreed with the Coast Guard and found that the applicant did not have atopic dermatitis or cholinergic urticarial, but most probably had an episode of acute urticarial that had resolved. Dr. H and PA G agree with DR. E that the applicant does not have the two disqualifying conditions.

7. The three post-discharge medical statements, although submitted after the applicant's discharge, raised legitimate questions whether the Coast Guard's PA reached the correct diagnosis. Since the Coast Guard did not obtain a medical opinion from an allergist or dermatologist, the Board finds that the applicant has shown by a preponderance of the evidence that he likely did not suffer from atopic dermatitis or cholinergic urticaria. Therefore, the Board finds that it would be an injustice to saddle the applicant with a diagnosis that the preponderance of the evidence shows that he likely does not have. Therefore, the applicant should have relief.

8. The Coast Guard indicated that if the Board determined that the applicant was entitled to relief, it would not object to correcting the applicant's record to show that he was discharged by reason of miscellaneous or general reasons (JND) and by correcting his reenlistment code to RE-1 (eligible for reenlistment). The applicant stated that he agreed with this relief.

9. Accordingly, the Board will direct the applicant's record be corrected as suggested by the Coast Guard and agreed to by the applicant.

**ORDER**

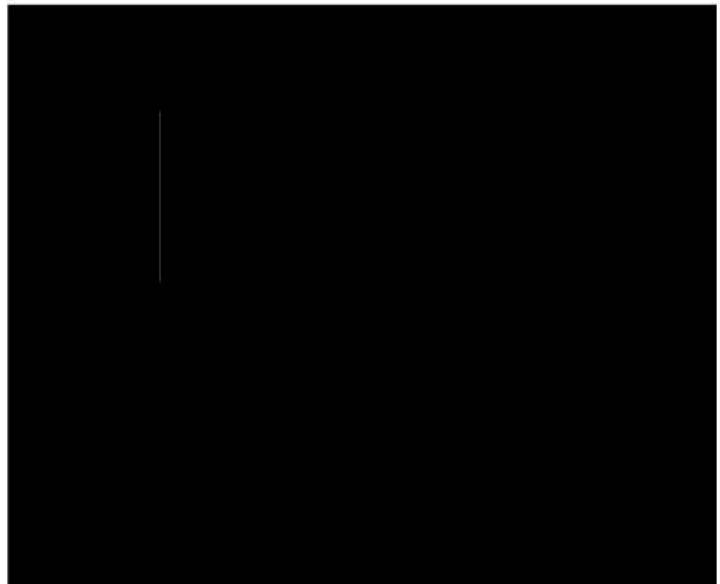
The application of former [REDACTED] for correction of his military record on further consideration is granted, in part: His DD 214 shall be corrected as follows:

- Block 25 shall be corrected to show COMDTINST M1000.4 Article 1.B.12.a. as the separation authority.
- Block 26 shall be corrected to show JND as the separation code.
- Block 27 shall be corrected to show RE-1 as the reenlistment code.
- Block 28 shall be corrected to show “miscellaneous/general reasons” as the narrative reason for separation.

The Coast Guard shall prepare and issue a new DD 214 to the applicant containing the above corrections.

No other relief is granted.

November 22, 2013  
Date



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\* The third member of the Board was unavailable. However, pursuant to 33 C.F.R. § 52.11(b), two designated members constitute a quorum of the Board.