

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2021-028

■ ■ ■ ■
LT (former)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on February 11, 2021, and assigned the case to the Deputy Chair to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated September 22, 2022, 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, a former Lieutenant (LT/O-3) who was honorably discharged on March 30, 2018, asked the Board to correct her record to show that she was medically retired with at least a 30% disability rating.¹ The applicant argued that she should have been medically retired because her Obsessive Compulsive Disorder (OCD) was completely debilitating.

The applicant, through counsel, stated that her OCD began early in her Coast Guard career and progressively worsened over time. She argued that as of 2016, her OCD rendered her completely disabled and she was unable to complete tasks associated with her grade and rank. The applicant argued that this culminated in her removal from a cutter. She argued that at the time she was removed from the cutter, her command and medical providers should have known that her condition was incompatible with continued service and referred her to a Medical Evaluation Board (MEB). The applicant argued that an MEB should have assigned her a disability rating of greater than 30% and issued her a medical retirement from the Coast Guard.

To support her application, the applicant submitted hundreds of pages of medical records. The relevant records are included in the summary of the record below.

¹ Active duty members may be permanently retired due to disability incurred in the line of duty if they have at least 20 years or if the disability is rated at least 30%. 10 U.S.C. § 1201.

SUMMARY OF THE RECORD

The applicant was appointed as a cadet in the Coast Guard Academy on July 1, 2002. On May 17, 2006, she graduated from the Coast Guard Academy and was commissioned as an ensign.

On May 22, 2015, the applicant reported for duty as the Operations Officer aboard a cutter.

In September 2015, the applicant received an Administrative Letter of Censure. In the letter, the applicant was censured for her substandard performance during the period of March 2015 to September 2015. During this period, the applicant did not meet the Command's expectations of a Department Head. Specifically, the Command was concerned about the following areas of the applicant's performance: planning and preparedness, communication, attitude, and focus.

On January 6, 2016, the applicant was notified that she was being removed from her primary duties as the Operations Officer aboard the cutter.

Shortly after being removed from her primary duties, the applicant received a derogatory OER for the period of April 25, 2015, to January 1, 2016. For the section describing her duties, her primary duty is stated as "Operations Officer." The description of her duties is stated as follows:

This OER is submitted under COMDTINST M1000.3A, Article 5.A.3.e(1)(b) due to sub-standard performance and/or conduct and is a derogatory OER per Article 5.A.7.c.; officer removed from primary duties on 06JAN2016. Directly responsible to CO for op readiness & mission execution. Managed trng, maintenance & admin for 5 divs w/5 Jos, 3 CPOs, & 27 enlisted & \$65K budget. Collateral duties: Navigator, responsible for voyage planning & safe navigation; Tactical Action Off (TAO), responsible for defense of ship w/weapons release authority; Senior Watch Off; Navigation & Seamanship Trng Tm (NSTT) Ldr. Period incl: 66-day JIATFS East Pacific & 39-day D77 patrols.

For the section evaluating her performance of duties, on a scale from 1 (worst) to 7 (best), she received three very low marks of 2 and two below-standard marks of 3. The comments for this section are as follows:

Reactionary vice proactive planning. Unprepared for daily ops brief; no ownership & provided min tactical planning/outlook despite daily planning mtgs w/CO, failed to understand/integrate intel & weather to position ship for mission success. Devised plan to complete all u/w NSTT drills but never personally learned drill rqmts nor facilitated crew trng; set crew up for failure leading to "not ready to train" designation at Command Assessment of Readiness & Trng (CART) following abandon ship drill—ineffective planning & poor use of Limited Trng Team (LTT) assistance prior to CART ill prepared crew & NSTT. Below standard knowledge of budget/spend plan despite Support Dept Head discussions. Unable to exploit OPS network; habitually sent blast emails seeking help. Inability to evolve, learn & build culture to quickly adapt to op environment; constantly disagreed/discarded feedback/counseling & reluctant to adjust work habits/plans to accomplish mission. Established negative credibility/competence w/crew; routine use of "I don't know" to subords w/no attempt to find answers. Used posn power to influence & took back seat whenever possible despite responsibility. Placed track lines thru Cuban TTS & didn't take action when notified by OOD; CO's direction prevented international incident. Shied away from opportunities to prove

seamanship abilities; repeatedly encouraged to coach shiphandling evolutions but failed to take action, deferred to pilot during limited opportunities.

For the section evaluating her communication skills, she received two marks of 3. The comments for this section are as follows:

Poor communicator & listener. Failed to understand tasking/direction from Command Cadre despite varied delivery approaches; unable to voice personal uncertainty leading to self & crew confusion & anxiety. Ineffective in conveying thoughts; often abrasive/surprised when called upon to speak. Writing is concise however struggled to tailor material to audience; patrol sum & op msgs missed mark & demanded major cmd oversight despite providing detailed emails outlining expectations weeks before deadline. Subordinate material not improved; consistently returned w/major edits.

For the section evaluating her leadership skills, she received five marks of 3 and one standard mark of 4. The comments for this section are as follows:

Ineffective ldr. Poorly mentored subord JOs; provided flawed advice based on past experience & failed to adapt/learn current practices, caused avoidable confusion/anxiety. Min oversight on JOs DWO/Navigator quals. Allowed 1st yr JOs to improperly prioritize individ quals despite patrol objectives & didn't devote time for Navigator PQS sigs; min guidance limited profl growth. Lost credibility/crew support thru demeanor/incompetence. Tasked subords w/o clear direction/expectations; stunted individual growth & dept/div productivity. Futile use of teams. Lacked desire to lead Aviation Trng Tm (ATT) & failed to participate & actively improve watchstander performance in prep for Helo Stan; removed as ATT Leader. Inadequate bridge team mgmt. & devotion to duty; engrossed self in comfort areas & failed to maintain focus as overall bridge safety during evolutions, provided no valuable feedback during nav/conning off debriefs. Negatively impacted cmd climate thru disrespectful emails/actions to subords; apologized only following cmd counseling. Vented performance struggles to subord JO & conversely criticized mbr for sub-std performance; created confusing climate for impressionable JO. Provided minimal value to evaluations; failed to document impact, slowed process & caused confusion amongst div offs/chiefs. OSF submitted on time but qlty commensurate of O1.

The applicant's Reporting Officer indicated that he concurred with the Supervisor's evaluation. The Reporting Officer's initial comments are as follows:

Approached assignment as trng billet, used "trial & error" work ethic; accepted mediocrity as std. Exhibited "check the box" mentality, missed sig ops & trng opportunities; overwhelmed by magnitude of job. Often misinterpreted critical issues due to own bias, neglected to seek clarification, wasted own & subs' time & effort; created anxiety w/in crew & poor wkplace climate. Routinely missed the mark & deadlines; failed to understand own impact to unit & msn success. Applied effort to low priority tasks & "reinventing the wheel"; required add'l wk by cmd & subs to meet CG objectives.

For the section evaluating her Personal and Professional Qualities, she received two marks of 2, two marks of 3, and one mark of 4. The comments for this section are as follows:

Showed initiative below what is required for posn, deferred tactical planning to E7 during go-fast cases despite TAO qual, unable to grasp tactical concepts & CG units' caps/lms, slow to make decisions, waited to be told vice driving msn execution during boardings; unable to enhance msn perf even when empowered. Lacked sound judgment, unable to provide critical thinking to unit challenges, as Navigator failed to inform cmd or DHS of 10 hr buffer w/in xsit plan, created false sense of urgency, minimized COAs iso ASW pump repair; introduced unnecessary risk. Exhibited questionable integrity, divulged sensitive ops info on messdeck, disregarded advice fm E7 to

discuss matter in private venue, ignited “rumor mill” & slowed unit productivity; claimed not to remember making statement when counseled 2 hrs later. Demon’d lack of commitment & ownership, had to be directed to meet w/Dept to plan inport objs 7 days prior to RTHP, Divos left to managed & correct unit program deficiencies alone; crisis regularly occurred in areas of responsibility. Lacked profl presence, neglected to respond to TOI intercept despite being notified by BMOW, unable to provide critical analysis of operational events at OPS briefs; showed lack of devotion to duty and preparation.

When compared to other officers in the same grade, the applicant received a mark for “Performance unsatisfactory for grade for billet” in the first of seven possible marks. The comments related to her potential are as follows:

Lacks profl competence & profl presence; credibility as a mid-grade officer suffers. Struggles in dynamic settings & requires a great deal of task direction to accomplish more than routine tasks; not rec’d for future Afloat assignments. Suited for posns of reduced responsibility & repetitive tasks w/little critical thought. Leads w/position power; yet lack proj mgmt skills & trust to be effective. Possesses underdeveloped mgmt. & ldrship skills; not rec’d for promotion at this time. Resists coaching & mentoring; own & subs’ profl growth stymied. Lacks a clearly defined sub-specialty. Familiar w/Prevention filed at staff lvl. A chng in specialty maybe warranted; a high rsk investment.

On February 16, 2016, the applicant submitted comments in response to the derogatory OER. She stated that during her time on the cutter, she had felt belittled, excluded, and as if she was being set up to fail. Specifically, she stated that she was belittled in front of her subordinates, excluded from events, and presented with unachievable or moving expectations. The applicant stated that this ultimately caused her to feel demoralized and fearful for her future. She also addressed the contents of the derogatory OER. The applicant argued that many issues presented in the OER shaded the truth by omitting important context and facts. Further, she stated that the document fails to capture any of her accomplishments. The applicant concluded by arguing that the OER was not an honest evaluation of her performance, but that it was a retaliatory attack for voicing her concerns regarding the command.

On October 27, 2016, the applicant had an appointment with Dr. P, a psychiatrist at a national military medical center. The applicant reported symptoms of low mood, insomnia, anhedonia, irritability, persistent worry, low energy, poor concentration, and crying spells. She stated that her symptoms developed after filing a civil rights claim against her command at her previous duty station. The applicant also stated that she had recently changed stations multiple times, been geographically separated from her husband and child, and had struggled with the fact that she would be separated from the military if she was passed over for promotion again. Dr. P stated that the applicant presented with symptoms most consistent with an adjustment disorder with mixed anxiety and depressed mood. Dr. P recommended that the applicant’s treatment plan include individual therapy and medication.

On November 29, 2016, the applicant had a follow-up appointment with Dr. P. The applicant stated that she had not noticed an improvement in her symptoms of depression. She also continued to endorse symptoms of anxiety to include excessive worry, irritability, and feeling overwhelmed. The applicant identified these symptoms as being significantly influenced by ongoing stressors related to a pending investigation against her former command as well as geographic isolation from her husband and child. The applicant also endorsed a new history of compulsions which she stated began while attending the Coast Guard Academy. She described

intrusive feelings of overwhelming dread for the safety of herself and her family should she not engage in certain behaviors. These behaviors included having to have items in her bathroom arranged in a specific manner, having to touch surfaces with both hands, and engaging in certain behavior in sets of three such as checking locks in her home, turning on and off lights, and checking the alarm on her phone. The applicant stated that engaging in such behaviors caused significant distress and anxiety. The applicant was diagnosed with an adjustment disorder with mixed anxiety and depressed mood, R/O (meaning need to rule out; i.e., possible) OCD. Dr. P noted that the applicant's OCD behaviors caused her significant clinical impairment in social and occupational functioning, but that further evaluation would be performed to corroborate and fully describe the nature of her symptoms. Nevertheless, Dr. P stated that there was enough evidence to pursue treatment of the applicant's OCD symptoms and that such treatment would be targeted towards fitness for continued duty. Finally, Dr. P noted that the applicant met the retention standards for fitness and suitability for continued service, that she remained world-wide qualified and cleared for any TDY or deployments, and that no alterations to her duty status or security clearance was recommended.

On December 6, 2016, the applicant had an appointment with Dr. S, a clinical psychologist at a national military medical center. The applicant's problems were described as follows:

Patient stated that she initially sought behavioral health related due to symptoms of anxiety and depression related to occupational stressors. Patient revealed that last year she was assigned to a Coast Guard Cutter for duty where she had an especially negative relationship with her superior. She endorsed belittlement and exclusion by this superior for 7-months prior to patient filing a civil rights complaint. Patient stated that after this she received a negative OER and was relieved of her duties. Patient is currently assigned locally and away from her husband and 2 ½ year old daughter, who cannot move due to financial constraints. Patient was also passed up for promotion recently likely due to negative evaluations. Other significant stressor includes attempting to conceive a child.

Patient additionally revealed that she has been struggling with symptoms of Obsessive Compulsive Disorder since adolescence. Patient reported that she developed motor tics (clench muscles in arm and groin area) in middle school due to what she felt was restrictive/tight clothing. Afterwards, she also began clenching her neck and developed a nose twitch. Patient revealed that in the Coast Guard Academy, she started developing compulsions which include the following: touching things with both hands, organizing things with right angles, completing things in series of 3s. Patient feels that if she doesn't do these things, "something bad is going to happen." Patient acknowledged insight that her behaviors are illogical and often unrelated to fears. However, her attempts to stop compulsions have only changed the way in which the compulsion is expressed. For example, she attempted to stop touching things with both hands but developed the belief that if she touched her other hand to the hand that touched the item it would be okay "because the particles would be evenly distributed." Patient expressed significant distress related to these compulsions and obsessions. She stated that she was hesitant about bringing these symptoms up for fear of getting removed from the Coast Guard. However, patient feels that her recent occupational stress has significantly exacerbated symptoms to a frustration point.

The applicant was diagnosed with: "Axis I: Adjustment Disorder with Anxiety R/O Obsessive Compulsive Disorder." The applicant's prognosis was "good" based on her insight/judgment, desire to resolve her disorder, and verbal agreement to the treatment plan. Regarding the applicant's anxiety, the goal of treatment was to relieve stress and develop positive coping skills. Regarding the applicant's OCD, the goal of treatment was to stop the OCD and reduce obsessions/compulsions by 50%. Dr. S noted that the applicant met the retention standards for

fitness and suitability for continued service, that she remained world-wide qualified and cleared for any TDY or deployments, and that no alterations to her duty status or security clearance was recommended.

On December 16, 2016, the applicant had a follow-up appointment with Dr. P. The applicant reported a mild improvement in her mood. She stated that she was less prone to becoming tearful or overwhelmed by stressors to the point of feeling helpless. However, the applicant reported no improvements in her other symptoms such as low mood, irritability, insomnia, anhedonia, persistent worry, low energy, and poor concentration. Further, she stated that she had been experiencing ongoing difficulties with compulsions and that the intensity and frequency of the compulsions had not changed. Dr. P diagnosed the applicant with OCD and an adjustment disorder with mixed anxiety and depressed mood. Dr. P's assessment that the applicant met the Coast Guard's retention standards remained the same.

On January 5, 2017, the applicant had a follow-up appointment with Dr. S. The applicant reported that she continued to have significant OCD symptoms. Dr. S and the applicant reviewed each OCD symptom and how it impacted her life. They also agreed on a treatment plan, which included exposure with response prevention. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On January 27, 2017, the applicant had an appointment with Dr. G, a psychiatrist at a national military medical center. The applicant noted a mild improvement in symptoms of depression. Notably, she experienced diminished tearfulness and feeling overwhelmed by small stressors. However, the applicant stated that compulsions remained consistent in terms of frequency and intensity. She also described intrusive images of her crashing her car or falling onto train tracks without any intent or desire to carry out these events. The applicant stated that she stopped taking her antidepressant medication due to a lack of perceived efficacy on her symptoms of compulsions. The applicant was diagnosed with OCD and adjustment disorder with mixed anxiety and depressed mood. Dr. G noted that the applicant met the retention standards for fitness and suitability for continued service, that she remained world-wide qualified and cleared for any TDY or deployments, and that no alterations to her duty status or security clearance was recommended.

On January 30, 2017, the applicant had a follow-up appointment with Dr. S. The applicant told Dr. S that she was pregnant. She decided to discontinue psychotropic medication during her pregnancy. Dr. S presented the applicant with the first module of an OCD program which provided information about OCD and exposure treatment. The applicant stated that she had already started working on some response prevention. However, she stated that she often became overwhelmed after some time and returned to the behavior. Dr. S told the applicant that changing pervasive OCD behavior would take time. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On February 6, 2017, the applicant had a follow-up appointment with Dr. S. The applicant and Dr. S reviewed her homework assignment to create a list of obsessions and related compulsions. The applicant identified a repeated obsessive thought that "something bad will happen." She expressed significant frustration with this thought because it did not logically

correlate to any compulsion. Dr. S helped the applicant list her compulsions on a hierarchy with ratings as to how much the compulsion disturbs her. The applicant expressed an interest in working on the most intense compulsion but agreed to work on a lesser one. She stated that she sometimes thinks that she left the stove on/door open and then compulsively checks the stove/door three times. The applicant felt as though she was unable to stop this compulsion but noted that it varied in how much this thought bothered her. The applicant was given an exposure with response prevention task to turn the stove on, turn it off, and then leave the room without checking the stove. She was given a log to detail her practice. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On February 13, 2017, the applicant had a follow-up appointment with Dr. S. The applicant stated that she was unable to complete her homework assignment because she had received bad news regarding a civil rights complaint that she had filed. She stated that her complaint was determined to be unfounded, and so she would likely be ending her Coast Guard career in the fall. Dr. S and the applicant processed her emotional reaction. The applicant stated that based on her experience as a woman in the Coast Guard, she somewhat expected this result. However, she still felt betrayed. The applicant described frustration that she would be separated based on one member's interaction with her. She was encouraged to attempt the previous session's homework. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On February 27, 2017, the applicant had a follow-up appointment with Dr. P. The assessment of the applicant was stated as follows:

Patient returns for routine follow-up. Symptoms remain consistent with prior report both subjectively and on objective scales with additional concern for fatigue/lack of motivation attributed in part to pregnancy. She continues to engage regularly in individual therapy. She would likely benefit from use of an SSRI/SNRI to address symptoms of depression, anxiety, and OCD in conjunction with therapy but declines medications at this time due to potential risks in pregnancy. Reviewed risks/benefits of SSRI/SNRIs during pregnancy with patient desiring to discuss use with her OB/GYN providers prior to further consideration.

Patient does not require regular follow-up with this provider at this time. Should she desire to initiate pharmacotherapy she was encouraged to schedule with this provider in clinic for routine follow-up or should she desire to discuss further aspects of her diagnosis or any other acute behavioral health concerns. At this time, it is likely that the severity of her symptoms would compromise her ability to carry out the duties expected of her rank and she is in agreement to be placed on LIMDU with referral to the PEB [Physical Evaluation Board]. She will also be referred for neuropsych testing in order to objectively evaluate her symptoms of OCD in conjunction with her clinical diagnosis and to examine for additional aspects of her presentation which may contribute to her distress.

At this time the patient denies suicidal or homicidal ideation, plans, or intent. She reports thoughts concerning images regarding dangerous actions such as driving off a bridge or falling onto a metro track but at this time these appear to represent symptoms of anxiety and worry and/or intrusive aspects of obsessions more than any thought or plan of harming or killing herself. She stresses a lack of desire or intent to fulfill these thoughts versus feeling scared by their presence. Regardless, patient was able to review her safety plan to include reaching out to her husband, to her local command, or engaging emergency resources should she develop ideation, planning, or intent for suicide.

Please note that at this time a diagnosis of OCD is not able to be entered into AHLTA due to technical difficulties. Patient meets full clinical criteria for the diagnosis of OCD.

Also on February 27, 2017, the applicant had a follow-up appointment with Dr. S. The applicant reported that she was processing the idea that her career in the Coast Guard would soon be over. She stated that she was looking forward to the next step in her career. The applicant also stated that she completed her homework assignment. She stated that it was easy to not check on the stove after she had turned it off. However, several hours later, she found herself wanting to check the oven. Once she had done that, she also wanted to check the front door, the freezer, and the closet door to make sure they were all closed. The applicant was asked to continue her homework of turning the stove on and off and then refrain from checking again. The applicant was also encouraged to acknowledge that her behavior was a symptom of OCD and that she should complete her homework in a kind and accepting way. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On March 6, 2017, the applicant had a follow-up appointment with Dr. S. The applicant expressed a desire for her OCD to just stop. Dr. S worked to empathize with the applicant and provided psychoeducation on the disorder. The applicant stated that she decided to pursue a Medical Evaluation Board (MEB) for OCD. She stated that after doing her homework assignment from the previous week, she recognized how much she was engaging in compulsions. The applicant stated that through logging her behavior, she had identified that she was engaging in compulsions about 60% of the time that she felt the urge to engage. She was very disheartened and expressed frustration in herself. Dr. S worked with the applicant to explore her diagnosis in a research method/observational approach rather than a personalized/moral judgment approach. The applicant stated that she would continue the goal of exposure with response prevention. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On March 13, 2017, the applicant had a follow-up appointment with Dr. S. The applicant told Dr. S that she did not complete a behavior log for the week and found that she thought about the compulsions much less. Dr. S and the applicant identified a new system to log her behavior that did not provide as much anxiety as the previous one. The applicant stated that she engaged in compulsions about 50% of the time this week, which was down 10% from the previous week. Dr. S and the applicant examined what happened when the applicant felt the need to engage in compulsions. For example, the applicant stated that she often argued with herself about whether she should engage in compulsions. Dr. S worked with the applicant to identify a new internal script that was less argumentative and more observational. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On March 20, 2017, the applicant had a follow-up appointment with Dr. S. The applicant told Dr. S that her psychiatrist could not initiate a Medical Evaluation Board (MEB) because she had been in treatment for less than a year. She expressed concern regarding her options. The applicant reported success in not engaging in "checking compulsions." The applicant stated that she only checked about 20% of the time she experienced an urge to do so. She stated that her "checking compulsion" was the least of her concerns, but expressed an understanding that working from the weakest compulsion to the strongest compulsion was productive. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On March 21, 2017, the applicant received a psychological assessment by a clinical psychologist, Dr. L. The applicant was referred for a psychology assessment by her outpatient behavioral health providers for diagnostic clarification for potential diagnoses of OCD, personality disorder/traits, anxiety symptoms and mood symptoms. The applicant was assessed based on a series of assessments, a 90-minute clinical interview, and a review of her medical records. In the section documenting the history of the presenting problem, Dr. L noted the following:

In addition to persistent worry and her depressive symptoms, she currently reports daily obsessions beginning in adolescence and increasing over time, as well as compulsions which began at age 19 during “swab summer” at the Coast Guard Academy and have progressively worsened. Her obsessions consist of vivid intrusive images of violent harm occurring to herself or family members such as being hit by a train or being murdered in her apartment. She described the intrusive images as if “they were on a TV in front of me.” Her reported compulsions consist of checking (door locks, oven, fridge), touching things with both hands, organizing things at right angles, completing things in a series of three, and specific motor tics (tightening muscles in the face, arms, neck, and groin.) She clarified that completing compulsive actions sometimes reduces anxiety and increases perceived control in preventing bad things from happening. She reported cutting her upper thigh with a razor for a period of 6 months while in the academy, but stated that it didn’t help and there has been no reoccurrence of non-suicidal self-harm.

Dr. L diagnosed the applicant as follows: OCD, with good insight, tic-related; major depressive disorder, moderate, with anxious distress, moderate; dependent and paranoid traits, mild. Dr. L noted that the applicant experienced intense hostility, anger, and resentment towards both herself and others that she might not be aware of consciously. Dr. L also noted that due to the applicant’s inability to easily connect with others to develop supportive relationships, she was likely to be overwhelmed when faced with stressors beyond her individual coping skills. In such situations, the applicant was likely to experience a depressive episode and an exacerbation of her OCD symptoms. Dr. L stated that the applicant’s treatment should initially focus on relieving depressive symptoms and then focus on improving her ability to manage her OCD symptoms.

On March 27, 2017, the applicant had a follow-up appointment with Dr. S. The applicant reported continued success in not engaging in “checking compulsions.” She stated that she only engaged in such compulsions about 20% of the time she experience an urge to do so. The applicant expressed an interest in working on the compulsion of touching things with both hands. Dr. S and the applicant discussed this compulsion and assessed factors that both contribute to it and prevent it. The applicant picked up an object from a table with only one hand and did not touch it with her other hand. She stated that if something happens to her this week, she will attribute it to this incident. The applicant was encouraged to attempt to not touch things with both hands this week. Dr. S noted that there was “some” response to the applicant’s treatment. Dr. S’s assessment that the applicant met the Coast Guard’s retention standards remained the same.

On April 24, 2017, the applicant had a follow-up appointment with Dr. S. Together, they discussed the applicant’s two goals related to OCD. The first goal was reducing “checking behavior.” The applicant asked Dr. S to explain what normal “checking behavior” should look like. Dr. S and the applicant worked to identify boundaries of normal checking versus OCD checking. The second goal was reducing touching habits. The applicant stated that she realized that touching things with two hands had become such a habit that she did not always think about it as she is doing it. Dr. S and the applicant discussed capturing periods of awareness each day to

identify touching habits. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On May 2, 2017, the applicant had a follow-up appointment with Dr. S. The applicant reported that she was struggling with excessive rumination about her time aboard the cutter. For instance, she had recently attended a training on command climate that made her think about the climate on board the cutter. Dr. S and the applicant discussed these thoughts as normative processing of a traumatic event which is exacerbated by her tendency to obsess and ruminate over things. The applicant stated that she was starting to realize the extent of her anxiety. Dr. S and the applicant discussed potential contributors to the development of anxiety. The applicant acknowledged that she had been in a high stress, high expectation environment her whole life. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On May 8, 2017, the applicant had a follow-up appointment with Dr. S. The applicant stated that she was working on the goals of reducing checking and touching behavior. She acknowledged that she was engaging in this behavior much less than she had been previously. Dr. S and the applicant identified barriers to progress and potential ways around them. The applicant also discussed her physical anxiety symptoms. For example, her response to being startled was so intense that she could end up crying due to the physical adrenaline in her body. Dr. S and the applicant discussed how lifelong anxiety had made her baseline anxiety very high and that even small stressors could push her over the threshold. They discussed how to lower the applicant's baseline anxiety. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On May 22, 2017, the applicant had a follow-up appointment with Dr. S. The applicant stated that she was working on the goals of reducing checking and touching behavior. She acknowledged that she was engaging in this behavior much less than she had been previously. The applicant also stated that she continued to be bothered by general anxiety. For example, the applicant expressed considerable anxiety about buying a particular car because the model was from an odd year. The applicant expressed considerable self-criticism for her behavior. Dr. S worked with the applicant to normalize her thoughts/emotions/actions in the context of an OCD diagnosis to increase acceptance and empathy for herself. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On June 5, 2017, the applicant had a follow-up appointment with Dr. S. The applicant stated that she was working on the goals of reducing checking and touching behavior. She acknowledged that she was engaging in this behavior much less than she had been previously. The applicant stated that she was able to move on from thinking about engaging in compulsion quicker than before. For instance, the applicant decided to purchase a car despite the odd number of the model year. Dr. S helped the applicant recognize her progress. The applicant also expressed that she was feeling overwhelmed because she was experiencing some complications with her pregnancy. She stated that she felt guilty for having her concern evaluated by a doctor. Dr. S and the applicant discussed the differences between normative reassurance versus extraneous/OCD related checking. The applicant asked for behavioral methods to reduce her tic behavior. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On July 24, 2017, the applicant had a follow-up appointment with Dr. S. The applicant stated that she was working on the goals of reducing checking and touching behavior. She acknowledged that she was engaging in this behavior much less than she had been previously. The applicant also identified another compulsive behavior. She stated that she developed a need to look at both feet for an equal amount of time in her field of vision. The applicant stated that she tried looking upwards, but that created ambulatory issues. She expressed frustration that she had not been successful in combating this compulsive behavior. Dr. S and the applicant discussed behavioral modification that reaffirmed that she did not need to see her feet for an equal amount of time. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On August 21, 2017, the applicant had a follow-up appointment with Dr. S. The applicant stated that she was working on transitioning to maternity leave for the next several months. She also stated that she was anticipating being separated from the Coast Guard. Dr. S and the applicant processed her anxieties about the transition. They also reviewed OCD techniques that they had been working on during this transition. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On August 28, 2017, the applicant had a final appointment with Dr. S. They discussed the applicant's treatment progress and current status. The applicant also identified future goals and potential barriers to those goals. Dr. S's assessment that the applicant met the Coast Guard's retention standards remained the same.

On September 13, 2017, a psychiatric evaluation of the applicant's records were completed to determine whether any condition existed that could impair her judgment, reliability, or ability to safeguard classified national security information. No concerns were detected during the screening. The applicant's diagnosis of OCD was noted.

On January 11, 2018, the applicant signed an Administrative Remarks form ("Page 7") regarding separation pay and recoupment from retired pay. The Page 7 stated that as a condition of entitlement for receipt of separation pay, the applicant agreed to serve in the Coast Guard Ready Reserve for a period of at least three years.

The applicant received a Detachment OER for the period of June 1, 2017, to March 30, 2018. For the section describing her duties, her primary duty is stated as "Admin & Standards Development." The description of her duties is stated as follows:

Assistant Administration Officer for 25 mbr staff. Develops & maintains 40 COMDT Instructions for 248 cutters. Coordinates responses for Congressional & GAO inquiries. Freedom of Information Act (FOIA) requests & high profile correspondence. Cutter Information Technology (IT) SML; responds to inquiries & analyzes manages cutter IT tools & requirements docs. Cutter IT integrated product team (IPT) Executive Secretary; leads 14 mbr core team of 2xO6s, 2xO5s, 3xO4s, 2xO3s, 1xCWO, 4xGSs.

For the section evaluating her performance of duties, she received five excellent marks of 6 and two outstanding marks of 7. The comments for this section are as follows:

Excellent preparation for 2 Cutter Resource Council meetings; engaged mbrs to collect cross-directorate resource requirements & prepare agendas: drafted/vetted minutes through 15 mbrs & published w/in strict time lines: behind-the-scenes efforts ensured orderly operation of O6-level decision-making body. Worked w/TISCOM to remedy recurring tracking error where office was billed for remote access software for 22 mbrs no longer on PAL; identified//implemented long-term fix to prevent future errors; realized \$8K/year in savings. Carefully conducted no-cost conversion of electronic shipboard qualification materials to streamlined format & reduce file size: efforts improved accessibility of key training resource & decreased fleet's printing costs by \$10K/year. Attained DHS Level 1 Program Manger certification & expertly applied knowledge to guide Cutter IT IPT & 6 sub-groups for identification of solutions to reduce administrative IT burden for cutters underway. Drafter concise final analysis w/practical recommendations for DCO/DCMS-Deputies: ensured items inclusion on Area Commanders Forum agenda & prepped O6 champion for short notice brief: recommendations approved by senior leadership & on track for implementation.

For the section evaluating her leadership skills, she received two above-standard marks of 5, three marks of 6, and one mark of 7. The comments for this section are as follows:

Volunteered for Hurricane Harvey call center duty: professionally fielded urgent calls from distressed citizens & families: recorded/relayed info to help direct responses: assisted DCO executive staff w/mgmt. of duty schedule & mbr recall: contributed to CG's first national response call center that reduced communications burden for responding field units & agencies. Created unit indoc process guide & used to assist 3 new mbrs w/onboarding process & DHS requirements/program mgmt. certifications: tracked, distributed & assured completion of 100+ taskers within timelines: assisted property custodian w/inventory cleanup: researched external hard drives & acquired extra workstation for staff use during extended TDY trips: ensure efficient administration of office. Participated in recognition/morale events & monthly professional development session: served as photographer for O6's retirement ceremony: helped officemates w/admin assignments: supported inclusive office environment.

For the section evaluating her personal and professional qualities, she received one mark of 5, three marks of 6, and one mark of 7. The comments for this section were as follows:

Spearheaded systemic review of drill requirements for 270-WMEC fleet: collected feedback from 6 cutters. Worked w/stakeholders & SMEs to adjudicate comments & develop new drill table: efforts will ensure training requirements match fleet's current capabilities & needs. Assisted office's most junior mbr w/defending & communicating core functions to directorate: helped protect mbr from assumption of extra duties not aligned w/primary job: brought attention to gap in current admin support structure. Upon identifying 2 new inspection requirements during review of draft policy manual. Diplomatically worked w/FC's Assessment, Inspection & Audit (AIA) governance office & originator to determine if requirements were approved: inspection requirements removed from policy & submitted to FC for formal determination: shielded cutter fleet from unvetted AIA burdens.

When compared to other officers in the same grade, the applicant received a mark for "One of the many high performing officers who form the majority of this grade" in the fifth of seven possible marks. On the promotion scale, the applicant received a mark for "Promote" in the third of six possible marks ranging from "Do not promote" to "Below zone select." The Reporting Officer's comments are as follows:

Ready now to assume increased leadership & responsibility commensurate with promotion to LCDR/O4. Well suited & strongly recommended for senior level program management, acquisitions, logistics & Joint DHS operations center assignments. Highest recommendation for selection to MBA operations research or post graduate school program of choice. Resourceful, dedicated & smart with an exceptional attention to detail, will succeed at any assignment. Instrumental to creating & carrying forward actionable plan in support of high profile initiative to

improve performance for major cutter fleet. Excellent team leader who continually seeks out ways to improve business practices. Highest recommendation for future employment in private sector & civil service, particularly well-suited for operations research, program management & acquisitions/contracting positions.

On March 30, 2018, the applicant was discharged for having twice failed to be selected for promotion or continuation by annual LCDR selection boards convened in August 2016 and 2017, in accordance with Article 1.A.12.d. of the Military Separations Manual. Her DD-214 shows “honorable” as the character of discharge; “non-selection, permanent promotion” as the narrative reason for separation; N/A as the reenlistment code; and JGB (non-selection, permanent promotion) as the separation code.

On November 17, 2020, the applicant received a letter from the Department of Veterans Affairs (VA). The VA assigned the applicant’s disability of OCD with post-traumatic stress disorder a rating of 100%.

VIEWS OF THE COAST GUARD

On May 27, 2021, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC argued that the applicant failed to show that the Coast Guard committed an error in discharging her for non-selection for promotion. PSC argued that the applicant’s medical records show that she had a mental health condition before she entered the Coast Guard. Then, from 2016 to 2017, the applicant was evaluated and treated for the mental health condition by a military psychiatrist and clinical psychologist. PSC stated that the providers’ assessments show that the applicant continued to meet retention standards and was cleared for duty without any restrictions.

The JAG argued that the Coast Guard did not commit an error or injustice in failing to issue the applicant a medical retirement. The JAG stated that a military psychiatrist and clinical psychologist determined that the applicant’s mental health condition met retention standards and was suitable for continued service. According to Article 2.C.2.a. of the Physical Disability Evaluation System Manual, the sole standard in making determinations of physical disability as a basis for retirement is the unfitness to perform the duties of office, grade, rank, or rating.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 2, 2021, the Chair sent the applicant a copy of the Coast Guard’s views and invited her to respond within thirty days. In her response, the applicant contested the JAG’s recommendation to deny relief in this case based on two issues.

First, the applicant argued that OCD is incompatible with continued service. She argued that due to her diagnosis, she should have been processed under the PDES. The applicant cited Articles 5.A.2. and 5.A.11. of the Coast Guard Medical Manual. She argued that the articles require the Coast Guard to process members who are diagnosed with OCD while on active duty for a medical retirement. The applicant argued that the reason she was not processed through the PDES

was because her medical providers were not familiar with the Coast Guard's regulations, standards, and instructions.

Next, the applicant argued that her mental health providers erred in properly evaluating her. She argued that the doctors failed to note the severe impact of her OCD on her ability to function within Coast Guard standards. For instance, the applicant argued that she was unable to focus, was consistently distracted, and was unable to adequately wear the Coast Guard uniform in a manner that facilitated successful performance of duty. She explained that the reason the severity of her disorder was not documented in her medical records was because her doctors were not affiliated with the Coast Guard. As such, she argued that her doctors were not knowledgeable about retention standards and failed to discuss how her diagnosis was incompatible with continued service.

APPLICABLE LAW AND POLICY

Article 2.C.2. of the Physical Disability Evaluation System, COMDTINST M1850.2D, discusses fitness for duty in relevant part:

- a. The sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of office, grade, rank, or rating because of disease or injury incurred or aggravated through military service. Each case is to be considered by relating the nature and degree of physical disability of the evaluatee concerned to the requirements and duties that a member may reasonably be expected to perform in his or her office, grade, rank, or rating.
- ...
- c. If a member being processed for separation or retirement for reasons other than physical disability adequately performed the duties of his or her office, grade, rank or rating, the member is deemed fit for duty even though medical evidence indicates he or she has impairments.

Article 5.A. of the Coast Guard Medical Manual, COMDTINST M6000.1F, discusses psychiatric conditions that might be considered disqualifying conditions in relevant part:

1. General.
 - a. Initial assessment. The following diagnostic categories conform to Diagnostic and Statistical Manual (DSM) IV-TR and indicate the appropriate reference for disposition. In determining qualification for appointment, enlistment, and induction, or appropriate disposition (when the condition has been determined to be disqualifying for retention in accordance with Paragraph 3-F-16 of this Manual), the diagnosis appears under DSM IV Axis I or Axis II. Conditions generally considered treatable and not grounds for immediate separation, mental health treatment may be authorized for members when medically necessary to relieve suffering and/or maintain fitness for unrestricted duty. The decision to provide treatment for mental health conditions will be based on a review of all factors, including the opinion of experts, probability of a successful outcome, and the presence of other physical or mental conditions. If a successful outcome (availability for worldwide assignment) is not realized within six months of the initiation of therapy, the patient's condition must be reassessed. If the reassessment indicates that the prognosis for a successful outcome is poor, the member shall be processed for discharge pursuant to Military Separations, COMDTINST M1000.4 (series) or through the

...

2. Personality Disorders. These disorders are disqualifying for appointment, enlistment, and induction under Chapter 3-D of this Manual and if identified on active duty shall be processed in accordance with Military Separations, COMDTINST M1000.4 (series). These are coded on Axis II.
 - a. 301.0 Paranoid.
 - b. 301.20 Schizoid.
 - c. 301.22 Schizotypal.
 - d. 301.4 Obsessive compulsive.
- ...
11. Anxiety Disorders (or Anxiety and Phobic Neuroses). These disorders are disqualifying for appointment, enlistment, or induction under Chapter 3-D of this Manual or if identified on active duty shall be processed in accordance with Physical Disability Evaluation System, COMDTINST M1850.2 (series), except as noted on (5) below. These disorders may be disqualifying for retention under Chapter 3-F of this Manual.
 - a. Panic Disorders.
 - (1) 300.01 Without agoraphobia.
 - (2) 300.21 With agoraphobia.
 - (3) 300.22 Agoraphobia without history of panic disorder.
 - (4) 300.23 Social phobia.
 - (5) 300.29 Specific phobia. [Military Separations, COMDTINST M1000.4 (series).]
 - b. Other Anxiety disorders.
 - (1) 300.00 Anxiety disorder NOS.
 - (2) 300.02 Generalized anxiety disorder.
 - (3) 300.3 Obsessive-compulsive disorder (or obsessive compulsive neurosis).
 - (4) 309.81 Post-traumatic stress disorder.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on 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 10 U.S.C. § 1552.
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.²
3. The application is timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).
4. The applicant alleged that her discharge is erroneous and unjust because she should have been processed under the PDES and medically retired. 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 the military record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.³ Absent evidence to the contrary, the Board presumes that Coast Guard

² *Armstrong v. United States*, 205 Ct. Cl. 754, 764 (1974) (stating that a hearing is not required because BCMR proceedings are non-adversarial and 10 U.S.C. § 1552 does not require them).

³ 33 C.F.R. § 52.24(b).

officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.”⁴

5. The applicant argued that she should have been processed under the PDES because her mental health condition was incompatible with continued service. She argued that her OCD diagnosis required the Coast Guard to refer her to the PDES for a disability retirement. First, the applicant argued that Article 5.A.2. of the Coast Guard Medical Manual required that she be processed under the PDES. However, the Board finds that this is a misinterpretation of policy. According to Article 5.A.2., members who are diagnosed with certain personality disorders are discharged for unsuitability in accordance with Article 1.B.15.b. of the Military Separations Manual. Members who are discharged for unsuitability do not receive a medical retirement. Further, the applicant was not diagnosed with a personality disorder. Instead, she was diagnosed with an anxiety disorder.

The applicant also argued that Article 5.A.11. of the Coast Guard Medical Manual required that she be processed under the PDES. However, contrary to the applicant’s assertion, OCD is not a disqualifying condition *per se*. According to Chapter 5.A.1.a. of the Coast Guard Medical Manual, treatable mental health conditions could be grounds for separation “if a successful outcome (availability for worldwide assignment) is not realized within six months of the initiation of therapy.” In this case, the applicant started attending individual therapy for OCD in October 2016. The applicant’s mental health providers consistently found that she met the retention standards for fitness and suitability for continued service. There was only one instance in which a doctor found otherwise. On February 27, 2017, Dr. P determined that the severity of the applicant’s symptoms would compromise her ability to carry out the duties expected of her rank. Dr. P stated that the applicant had agreed to be placed on limited duty status with referral to a Physical Evaluation Board. From October 2016 to August 2017, the applicant saw several mental health professionals for OCD. The applicant’s appointment with Dr. P on February 27, 2017, was the only appointment in which the applicant was recommended for limited duty status. In fact, that same day, the applicant also had an appointment with Dr. S who found that she had met the retention standards for fitness and suitability for continued service, that she remained world-wide qualified and cleared for any TDY or deployments, and that no alterations to her duty status or security clearance was recommended. Further, in the dozens of appointments following her February 2017 appointment with Dr. P, the applicant’s mental health providers continued to find that she met the retention standards for fitness and suitability for continued service. Therefore, the Board finds that the applicant failed to show by a preponderance of the evidence that her OCD diagnosis required that she be processed under the PDES.

6. The applicant also argued that her mental health providers committed an error or injustice in failing to properly document the severity of her OCD symptoms. Specifically, the applicant stated that she was unable to focus, was consistently distracted, and was unable to adequately wear the Coast Guard uniform in a manner that facilitated the successful performance of duty. The applicant argued that her doctors failed to document the severity of her symptoms because they were not affiliated with the Coast Guard and so were unfamiliar with the standards. The Board finds this argument unpersuasive. First, the applicant received mental health treatment

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

at one of the most prominent U.S. military medical centers in the country. Further, regardless of whether or not they were affiliated with the military, her medical providers would likely have documented significant and ongoing complaints made by the applicant. However, such complaints are not documented in her extensive medical records. Starting in October 2016, the applicant attended therapy on a nearly weekly basis. Each appointment was documented by the mental health provider with thorough notes of the applicant's complaints and treatment progress. The applicant's medical records do not show that she complained about a significant inability to focus, that she was consistently distracted, or that she was unable to adequately wear the Coast Guard uniform. Therefore, the applicant has not proven by a preponderance of the evidence that her mental health providers failed to properly document the severity of her OCD symptoms.

7. Finally, the applicant argued that she should have been processed under the PDES because she was unable to perform her duties. Under Article 2.C.2.a. of the PDES Manual, "[t]he sole standard in making determinations of physical disability as a basis for retirement or separation shall be unfitness to perform the duties of office, grade, rank or rating because of disease or injury incurred or aggravated through military service." In this case, the applicant argued that she was unfit to perform her duties as evidence by her removal from her primary duties in January 2016. However, the applicant did not provide any evidence that she was removed from her primary duties as an Operations Officer in January 2016 because she was medically unfit to perform her duties. Inadequate performance of duty, by itself, does not constitute physical unfitness.⁵ The applicant's derogatory OER provides an extensive list of reasons that support her removal as the Operations Officer. For example, the derogatory OER states that the applicant was unprepared for daily operation briefs, that she was a poor communicator, and that she poorly mentored her subordinates. In the applicant's response to the derogatory OER, she failed to allege that a mental health disorder impacted her performance of duties. Instead, she argued that she was removed from her primary duties in retaliation for voicing her concerns about the command. This is supported by the applicant's civil rights complaint that she filed against her command after being removed from the cutter. The applicant also failed to explain how her OCD was related to her removal from her primary duties in her application to the Board.

The applicant's military records also show that she was ably performing her duties at the time of her discharge. According to Article 2.C.2.c. of the Physical Disability Evaluation System Manual, if a member being processed for separation or retirement for reasons other than physical disability adequately performed the duties of his or her office, grade, rank or rating, the member is deemed fit for duty even though medical evidence indicates he or she has impairments. After the applicant was removed from her primary duties in January 2016, she reported for duty working in administrative and standards development. As established by her detachment OER, the applicant was adequately performing her duties in that role. In fact, the applicant received many excellent and outstanding marks. Therefore, the Board finds that because the preponderance of the evidence shows that the applicant was fit for duty, she has not shown that her command erred by not convening a medical board to process her for a disability separation under the PDES process.⁶

8. The applicant's request should be denied.

⁵ Chapter 2.C.2.d. of the Physical Disability Evaluation System Manual, COMDTINST M1850.2D

⁶ 10 U.S.C. § 1203.

ORDER

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

September 22, 2022

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Date: 2022.11.21 16:29:06 -05'00'

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