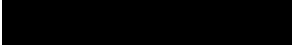


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2023-034


SN (E-3)

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 May 9, 2023, and assigned the case to the staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision dated December 19, 2024, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant, a former Seaman (E-3), asked the Board to correct his military record by changing his "discharge status" and reimbursement of medical costs for treatment of medical conditions evaluated following his discharge from the Coast Guard.

SUMMARY OF THE RECORD

The Applicant entered the Coast Guard on July 26, 2022 as a Seaman (E-3) and reported to recruit training at TRACEN Cape May.

During his training, he was treated for a number of medical conditions between July and November of 2022. Relevant to his application, he was first treated for bilateral knee and shin soreness on August 15, 2022. He followed up with physical therapy for his knees and shins on August 22, 2024 where he was iced and performed stretching.

On September 1, 2022, Applicant reported to medical again with extreme bilateral hip pain. He reported that the symptoms in his knees and shins had worsened from his previous visit. On September 2, 2022, he followed up and got referred for MRIs on both hips to rule out fractures. He was admitted to the ward to facilitate treatment, and continued to receive physical therapy for his knees and shins.

On September 12, 2022, the Applicant received an MRI of both hips which revealed stress fractures on both femoral joints, with hypertrophic change or avascular necrosis. On September 16, 2022, the applicant was evaluated for anxiety and depression and diagnosed with a “Phase of Life Problem.” In the following weeks, he continued to receive physical therapy and orthopedic follow-ups.

On September 22, 2022, the Applicant completed a follow-up appointment where he denied new medical concerns and stated he was progressing well. He stated he no longer wished to continue recruit training or remain in the Coast Guard. He was counseled that he would have to be Fit For Full Duty (FFFD) before he would be eligible for separation. On November 1, 2022, he was released from the ward and processed into the Recruit Holding Element (RHE).

After his release from the ward, he continued to follow up with medical, and reported complete resolution of his symptoms on November 8, 2022. He was then formally cleared FFFD by his medical officer. He then immediately submitted a written request for discharge, declaring that his “desire to continue becoming a PA (Public Affairs Specialist) stopped.”

On November 14, 2022, the Applicant was notified of discharge proceedings against him. He signed an “Acknowledgement of Notification of Discharge Processing,” and checked a block where he refused to submit a statement or rebuttal. He was formally separated on November 18, 2022 with an uncharacterized discharge for entry-level performance and conduct.

THE APPLICANT’S ALLEGATIONS

The Applicant alleges that he was denied leave, isolated, and removed from his company, only allowed to return home by denying pain. He alleges that a subsequent MRI conducted on December 28, 2022 revealed that labral tears were present on “both sides,” with “tendinosis on left proximal hamstring.” He claims that orthopedic experts recommend orthoscopic repair to both hips were necessary. Applicant requests a change in “discharge status” and reimbursement of medical costs.

In support of his allegations, the Applicant includes a report from his December 28, 2022 MRI. The report does not indicate “labral tears,” but does support his allegation of hamstring tendinosis. It does not include a recommendation for follow-up care.

VIEWS OF THE COAST GUARD

On September 21, 2024, a Judge Advocate (JA) for the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum prepared by the PSC, and recommended that the Board deny relief in this case.

The Coast Guard relied on the fact that the Applicant was cleared FFFD and subsequently refused to train and requested release from active duty. Applicant’s discharge was, therefore, proper and “reflective of his situation.”

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

The applicant was provided the Coast Guard Advisory Opinion, but did not provide a response or request an extension of time to do so.

APPLICABLE LAW AND POLICY

33 Code of Federal Regulations (CFR) § 52.24 states the requirements for evidence and the burden of proof in BCMR applications.

- (a) It is the responsibility of the applicant to procure and submit with his or her application such evidence, including official records, as the applicant desires to present in support of his or her case. All such evidence should be submitted with the applicant's DD Form 149 in accordance with § 52.21(c)(1). Evidence submitted by an applicant after an application has been filed and docketed shall be considered late and its acceptance is subject to the provisions in § 52.26(a)(4) and (c).
- (b) The Board begins its consideration of each case presuming administrative regularity on the part of Coast Guard and other Government officials. The applicant has the burden of proving the existence of an error or injustice by the preponderance of the evidence.

Article 1.B.19, COMDTINST M1000.4 (August 2018), provides the following guidance related to entry-level separations:

Article 1.B.19.a. Applicability. Uncharacterized discharges are authorized for all members separated while in an entry-level status. An uncharacterized discharge is used for all recruit separations, except as prescribed or authorized by Article 1.B.1.a(3) of this Manual, and in accordance with Article 1.B.19.b.(2) below.

Article 1.B.1.a(3). Commanding officer, Training Center Cape May, may be the Discharge Authority for uncharacterized discharges for recruits in an entry-level status in accordance with Article 1.B.19 of this Manual. In addition, Commanding Officer, Training Center Cape May has authority to award a characterized discharge – honorable or general (under honorable conditions), as appropriate – to recruits:

- (a) For misconduct due to drugs, in accordance with Article 1.B.17.b.(4) of this Manual, including but not limited to pre-enlistment drug use evidenced by a positive urinalysis shortly after entering an accession training program. (New inductees shall sign an Administrative Remarks, Form CG-3307, entry acknowledging that the presence of drugs in their bodies is grounds for a general (under honorable conditions) discharge for misconduct.)
- (b) Who do not meet the criteria for discharge under an entry-level status, but are otherwise recommended for discharge under Section 1.B. of this Manual;
- (c) Who meet the criteria for entry-level status, but unusual circumstances exist that warrant a characterized discharge (e.g., serious infractions or exceptionally meritorious service).

Article 1.B.1.f. Definitions. As used in this Article, these definitions apply:

...

- (15) Entry-Level Status. Upon enlistment, this status applies to first-term performers who have fewer than 180 days of active military service, and to prior-service enlistees who have accumulated fewer than 180 days of active service after a service break of more than 92 days following their prior military service.

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 over this matter under 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued. The application was timely 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).

2. 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.¹ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."²

3. With respect to the Applicant's request for a change in "discharge status," the Board finds that no relief is warranted. While his request is unclear, the Board presumes Applicant is referring to his characterization of service and/or narrative reason for separation. The Board first notes that the Applicant has alleged no error or injustice related to his discharge. He does not, for example, claim that he should not have been separated, or that his separation should have been through procedures other than those applicable to entry-level separations in accordance with COMDTINST M1000.4 Article 1.B.19. The Applicant was in an entry-level status when discharged, and his command at TRACEN Cape May appears to have appropriately separated him with an uncharacterized discharge. The record indicates that the Applicant did not object to his discharge at the time. Without any specific allegation of error or injustice and considering the presumption that Coast Guard officials have acted correctly, lawfully and in good faith, it is not necessary for the Board to look further into the appropriateness of his discharge.

4. With respect to the Applicant's request for reimbursement of medical costs, the Board finds that no relief is warranted. Applicant has provided no evidence that he has incurred medical costs. Furthermore, the medical records he provided to support his claims do not indicate what – if any – follow up care is required or recommended, or whether the medical conditions he alleges are related to injuries sustained during his brief military service.

(ORDER AND SIGNATURES ON NEXT PAGE)

¹ 33 C.F.R. § 52.24(b).

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

ORDER

The application of Seaman [REDACTED] for correction of his military record is denied.

December 19, 2024

