

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2012-027

**Discharge Issued**

**Character:** Under Honorable Conditions (General)

**Narrative Reason:** Unacceptable Conduct

**SPD/RE Code:** BNC / N/A

**Authority of Discharge:** 12.A.7

**Date of Separation:** 2011-07-29

**DRB Decision**

**Character:** No Change

**Narrative Reason:** No Change

**SPD/RE Code:** No Change / No Change

**New Authority:** No Change

**Discharge Review Board Discussion and Decision:**

**DISCUSSION:**

The Applicant resigned their commission with an under honorable conditions character of service, and a narrative reason for separation of unacceptable conduct. The applicant submitted a request for unqualified resignation in lieu of court martial as a provision of the charges being disposed of at mast vice court martial. The Applicant acknowledged the conduct unbecoming an officer and was found to have violated the UCMJ in which NJP punishment was awarded. In the applicant's request for resignation, it reads that the applicant "may receive a discharge under other than honorable conditions" and that the entire service record is taken into consideration in upgrading the character of service.

The applicant appeared in person before the Board and presents that post-separation completion of Associates and Bachelors degrees, and being employed at an academic institution. The applicant contends that the basis for the resignation and the charges leading to the Discharge were unfounded, and therefore the character of service should be upgraded to honorable, and the narrative reason should be changed to completion of required active service.

The Board finds no issues with propriety or equity in this case. The Applicant was afforded applicable due process and voluntarily elected resignation in lieu of court martial. The case was disposed of at NJP and the applicant was found to have violated Article 133, Conduct unbecoming of an officer. The applicant presents that the sexually explicit materials given to the victim in this case were never proven to be created and passed by them. This post separation sentiment is not consistent with the following two actions: the unqualified resignation request made by the applicant (pre NJP) which was not approved. And, the resignation request made (after the NJP proceeding) in which the applicant stated in fact creating the erotic disc given to the victim in addition to sending messages to the victim on match.com and myspace accounts.

The applicant spends the majority of the 30-page petition provided pointing out how the victim was not a credible source. The applicant also states not being supported in previous work situations by the chain of command. Lastly, the applicant attempts to cite a similar sexual harassment case in an attempt for greater immunity on the character of service. The Board has reviewed all items and testimony provided by the applicant. There was nothing within the application, petition, or 41 attachments that refute or upgrade the findings of the applicant's separation. Final Adjudication by Assistant Commandant For Human Resources: Concur with Board. No relief.

In reviewing discharges, the Board presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence (to include evidence submitted by the Applicant) to rebut the presumption.

