

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2012-054

Discharge Issued

Character: Under Honorable Conditions (General)

Narrative Reason: Misconduct

SPD/RE Code: JKL / RE4

Authority of Discharge: COMDTINST M1000.6A, ART 12.B.18

Date of Separation: 2005-08-12

DRB Decision

Character: Under Honorable Conditions (General)

Narrative Reason: No Change

SPD/RE Code: No Change / No Change

New Authority: No Change

Discharge Review Board Discussion and Decision:

DISCUSSION:

The applicant was separated with a General Discharge for misconduct resulting from sexual perversion and indecent acts or offenses.

On two different occasions, the applicant made non-consensual sexual advances on a shipmate. These incidents occurred while both parties were very intoxicated. Therefore, the victim in these situations had no capacity to resist the applicant's undue physical and sexual behavior. The applicant claims to have stopped when told verbally; however, the victim must be of a sound and stable mind for both parties to legally engage in a consensual act that involves physical intimacy and touching of a sexual nature.

The applicant chose to accept a pretrial agreement for lesser punishment and a more favorable character of service. This enabled the applicant to remove themselves from the Special Court-Martial which could have rendered a Bad Conduct or Dishonorable Discharge. The applicant received punishment that was no higher than a Summary Court Martial with one guilty plea on the two charges that occurred. The applicant's committed offense warrants no higher than an Under Honorable Conditions character of service. Prior to the mentioned offenses, the applicant had a civil DUI conviction which caused disenrollment from "A" school, and also received NJP for violating Article 92 for having sexual intercourse with someone else's spouse.

The Board notes that the applicant's military record shows that the applicant received a General Discharge for their character of service. In accordance with ALCOAST 562/08, the DD-214 should be administratively corrected to "Under Honorable Conditions". The General discharge was issued correctly at the time of separation.

Propriety: Discharge was proper.

Equity: Discharge was equitable.

Final Adjudication by Assistant Commandant For Human Resources: No relief other than the administrative change to the character of service to

'Under Honorable Conditions' pursuant to post-separation policy changes noted in ALCOAST 562/08.

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.

