

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2013-006

Discharge Issued

Character: Other Than Honorable Conditions

Narrative Reason: Misconduct

SPD/RE Code: HKQ / RE4

Authority of Discharge: COMDTINST M1000.4, 1.B.11

Date of Separation: 2012-06-01

DRB Decision

Character: No Change

Narrative Reason: No Change

SPD/RE Code: No Change / No Change

New Authority: 1.B.17

Discharge Review Board Discussion and Decision:

DISCUSSION:

The applicant was discharged for misconduct due to commission of a serious offense.

The applicant's complete Personnel Data Record, Summary Courts-Martial, Pretrial Agreement, and Separation Package were available for the Board to review. The Board utilized available information contained in electronic records and documents submitted by the applicant, to include an attorney brief with several enclosures.

The applicant pled guilty to maltreatment of junior personnel under their supervision. By specifically admitting to the following: inappropriate sexual advances of touching and grabbing shipmates; mentally and verbally abusing subordinates in the line of duty; generally invading their privacy by visiting their duty rooms without justification and refusing to leave when asked; undue comments of a sexual nature; and exposing themselves nude in pictures sent via text messages. These events took place at a small CG Station. This particular CG Station is a smaller unit in which the applicant was only one of two supervisory E5's onboard. Without a larger hierarchy at this location, this suggests to have enabled the applicant to engage in inappropriate, lewd, and abusive acts over an extended period. Later, the victims could no longer deal with the unwanted behavior and reported it to their immediate chain of command. Thereafter, the applicant was administratively assigned elsewhere awaiting a full investigation, and subsequent UCMJ proceedings. Additionally, a Military Protective Order was issued to eliminate any further contact with the victims.

The applicant accepted a Pretrial Agreement (PTA) in order to avoid the punishment and subsequent character of service associated with a Special Court-Martial proceeding. In exchange for the guilty pleas, the convening authority agreed to withdraw the case from a Special Court-Martial and refer the case to a Summary Court Martial. The Summary Court-Martial officer accepted the applicant's plea of not guilty to Charge III: Violation of UCMJ, Article 120, which closely aligns with charges for a sex offender. This verdict was made despite statements from the two victims and a bystander that the applicant exposed (and touched) their body in a sexual nature in front of them on different occasions.

The applicant (and attorney brief) states that the victims were reciprocal in the physical contact, text messages, and sexual nature initiated by the applicant. The meager evidence provided by the applicant shows that the victims responded to text messages in a flirtatious way, and that one of the victims shared a shirtless calendar of themselves. None of the items brought forth by the applicant excuse the behavior in which the applicant harbored and created an inappropriate (and sometimes hostile) work environment. The applicant repeatedly touched and harassed subordinates in a sexual nature. These actions are inexcusable regardless of sexual orientation, or the repeal of the

Don't Ask, Don't Tell policy.

The exhibits in the attorney brief concerning the applicant's performance evaluation, separation physical, and counseling by the last supervisor were reviewed. The Board finds no issues with propriety or equity on the merits of this case. The aforementioned grievances on the PDR and medical record are more suitable for a Board of Correction for Military Records inquiry, or filing a claim with the Department of Veterans Affairs. The board is limited in scope to make recommendations solely on the basis of the applicant's discharge. The Board does note that the DD-214 incorrectly cites the Separation Authority. The SPD code of I-IKQ is aligned with the Military Separations Manual, COMDTNST M1000.4, Art 1B.17 vice the Art 1B. 11 listed on the DD-214 issued.

Propriety: Discharge was proper.

Equity: Discharge was equitable.

Final Adjudication by Assistant Commandant For Human Resources: No relief. Concur and approve the administrative change to the Separation Authority in Block 25 of the applicant's DD-214 to be amended to COMDTINST M1000.4, Art 1B.17.

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.