

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2013-032

**Discharge Issued**

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

**Narrative Reason:** Misconduct

**SPD/RE Code:** JKQ / RE4

**Authority of Discharge:** COMDTINST M1000.4, ART 1.B.7

**Date of Separation:** 2012-09-18

**DRB Decision**

**Character:** Honorable

**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 discharged for Misconduct due to Commission of a serious civilian offense.

The applicant's complete Personnel Data Record and Separation Package were available for the Board to review. The applicant was arrested and charged with one count of Felony Battery. He struck another civilian causing the victim to lose a tooth, and to crack another tooth along with several stitches to the face. The applicant later went to court in where a plea nolo contendere was entered, i.e., I will not contest the charges. To wit: A plea in a criminal case by which the defendant answers the charges made in the indictment by declining to dispute, or admit the fact of their guilt. The applicant was subsequently Discharged.

Prior to the aforementioned serious offense, the applicant states having a previous alcohol incident that was not handled correctly. The applicant received a Disciplinary evaluation, but the PDR does not have the full details. It was determined that the incident also had alcohol as a causative factor. The applicant's command initiated Discharge proceedings based on the two alcohol incidents. Thereafter, the command received the State court documents and final CGIS reports, allowing them to provide a comprehensive recommendation to PSC-epm for separation.

The applicant is claiming that the command was abusive and vengeful in their processing of the case. Furthermore, the applicant mentions no details or mitigating factors about the Felony Battery with no contest plea. Rather, the applicant expresses that the alcohol abuse should be the basis for the Discharge which would have rendered a Honorable Discharge.

The Board finds no issues with propriety or equity in this case. The command followed the proper sequence in the discharge proceedings as they received all of the related information needed. Apart from the civilian court proceedings, the board also notes that the applicant never received UCMJ punishment. The applicant was notified of the intent to discharge. The applicant made a statement and objected to discharge. Prior to epm's final approval, the Admiral serving as the local Discharge authority fully endorsed the Discharge due to commission of a serious offense with a General, Under Honorable Conditions character of service.

Final Adjudication by Assistant Commandant For Human Resources: 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.

