

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2013-072

**Discharge Issued**

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

**Narrative Reason:** Misconduct

**SPD/RE Code:** JKD / RE4

**Authority of Discharge:** COMDTINST M1000.4 ART 12-A-14

**Date of Separation:** 2006-06-22

**DRB Decision**

**Character:** No Change

**Narrative Reason:** Change

**SPD/RE Code:** Change / RE3

**New Authority:** COMDTINST M1000.6 Art 12.B.12

**Discharge Review Board Discussion and Decision:**

**DISCUSSION:**

The applicant was discharged for Misconduct due to Unexcused Absences as a drilling reservist.

The Board utilized available information contained in electronic records and documents submitted by the applicant. The applicant's command addressed the drill attendance expectation in an administrative remarks entry after being unexcused and absent from duty over the previous 4 months. Thereafter, the applicant missed the next 4 months of drills with no explanation or communication with the command. Pursuant to policy, the applicant was processed for Discharge due to shirking.

The Board notes the comments made on the current application, but there is no evidence to show that the applicant requested a hiatus from drilling by transferring to ISL, ASL or IRR component while in a hardship situation. These actions are incumbent on every drilling member of the Ready Reserve.

The Board finds no issues on the basis of equity or propriety. The applicant has provided no new information to refute the terms of the Discharge.

**RECOMMENDATION:** The Board members thoroughly reviewed the applicant's record of service and all available documentation.

Propriety: Discharge was proper.

Equity: Discharge was equitable.

Board Conclusion: The Majority Board voted 5-0 to recommend no relief.

**Board Addendum:**

Upon further review of the case documents and receiving feedback from the Coast Guard Office of General Law (CG-LGL), the advisory opinion of the Board has found that the propriety and equity standard for the Discharge issued was not fully met.

Pursuant to Article 4.B and 8.B of the Reserve Policy Manual, COMDTINST M1001.28A, commands are required to monitor member participation and Correct performance deficiencies by timely counseling of members who are not participating satisfactorily. Commands shall document all counseling in accordance with Preparation and Submission of Administrative Remarks (CG-3307).

Thereafter, the command should follow the procedural guidelines of Personnel, Pay and Procedures Manual, PPCINST M1000.2B, Section 3.D.4, to notify the member of the intent to Discharge for non-participation. There is no record of the command complying with these requirements prior to the discharge. The absence of a discharge package and supporting documentation regarding notification of the intent to discharge and appropriate due process being followed is problematic.

While the lack of supporting documentation by the applicant's command does not completely absolve the minimum participation and drilling requirements, the Board does not endorse or suggest granting relief to an Honorable Discharge. A ready reserve member who has been separated for failing to participate in normal drills without excused absences is most analogous to and appropriately addressed by an uncharacterized discharge.

Pursuant to Article 1.B.19.a of the Military Separations Manual, COMDTINST M1000.4, uncharacterized discharges are authorized for all members separated at entry level who "(1) have fewer than 180 days of active service on discharge and (2) demonstrate a poor proficiency, conduct, aptitude or unsuitability for further service during the period from enlistment through recruit training." In this case, the member has fewer than 180 days of active service and has shown that they are unsuitable for further service by failing to show up for regularly scheduled drills.

The advisory opinion also does not rule in favor of any Misconduct Narrative Reason to remain as the policy and procedures were not properly followed.

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.