

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2014-022

Discharge Issued

Character: Honorable

Narrative Reason: Completion of Required Active Service

SPD/RE Code: MBK / RE4

Authority of Discharge: COMDTINST M1000.6 CH 12.B.18

Date of Separation: 2010-05-07

DRB Decision

Character: No Change

Narrative Reason: No Change

SPD/RE Code: No Change / RE1

New Authority: 12.B.11

Discharge Review Board Discussion and Decision:

DISCUSSION:

The applicant was discharged for Completion Of Required Active Service.

Since the separation from the service, a DD Form 215 was issued with an upgrade to RE-3 re-entry code. This ruling was independent from any Discharge Review Board proceeding. For this request to upgrade to an RE1, the Board was unable to find the supporting documents from the local command that endorsed the RE-3 upgrade. The Board will make their recommendation based off the information from the applicant's time in service.

Majority vote 4-1: The Majority Board questions the legality of issuing a RE4 (or RE3) reenlistment code for SPD Code MBK. In accordance with the SPD Handbook, RE1 is the only reenlistment code authorized for SPD Code MBK. The applicant served the 4 year Active Duty obligation. In the months prior to the separation, the command issued official correspondence to state that the applicant was not eligible for reenlistment. The applicant appealed this determination and wished to stay in the service, but PSC-epm concurred with the command and endorsed the RE4 reenlistment code to the applicant from future military service.

The Majority Board notes the 2 NJP's and the inappropriate relationship with a shipmate, although an evaluation just 9 months prior to the separation was listed as Satisfactory with a Recommendation to compete for advancement to the next pay grade. It was in early ____ (3 months prior to discharge) that the applicant received a Not Recommended evaluation that only listed 1 evaluation factor as below average, and was not linked to any Misconduct. The final two evaluations were not equitable and in alignment with a Not eligible for Reenlistment ruling. The applicant was clearly above the minimum evaluation average in accordance with 12.B.48.b of the Legacy Personnel Manual. Therefore, the Majority Board does not feel that the basis to issue an RE4 was legally sufficient. In hindsight, the command should have granted a 1 year extension and placed the applicant on performance probation. Or, the command could have separated the applicant after the 2 NJPs in 24 months for a Pattern of Misconduct. Post-separation, the issuance of DD Form 215 with an RE3 only adds credence to the claims made by the applicant of the command climate while in service. The Majority vote recommends an upgrade to an RE1 reenlistment code due to the inadequate administrative management on the applicant's performance, and the command's hasty decision to speed up their 'Right of Refusal' with regard to the applicant's Reenlistment eligibility. Further of note, most reenlistment interview assessments are to be conducted 6 months prior to separation per 12.B.4.b, not the mere 65 days that was elapsed between the command memo notification and the effective date of the discharge.

Minority vote 1-4: The applicant was given numerous chances to become a productive performer. It is not

incumbent on the command to grant a probationary period in order to pave the way for continued employment. Additionally, this determination would undermine the overall reenlistment interview process and the command's authority on these matters if 'inept performers' can easily perpetuate and demonstrate a loophole on the command's responsibility to properly counsel 'substandard performance issues'. Per 12.B.4.a, the command identified the applicant was unsuitable for continued service for all the aforementioned reasons. With the RE-3 issued after-the-fact, an RE3 reentry code is not an affirmative recommendation for reenlistment, rather it represents that the applicant is not recommended for reenlistment due to a disqualifying factor. The RE3 code may be waived based upon the policies and needs of the gaining Service. Minority Vote recommends to stand as issued from the DD Form 215 issued.

Propriety: Discharge was NOT proper.

Equity: Discharge was NOT equitable.

Final Adjudication by the Assistant Commandant for Human Resources: Concur with Majority Board vote. Relief is granted on the Reentry code to RE1. The Separation Authority will also be amended to (Legacy Personnel Manual) COMDTINST M1000.6A, Art 12.B.11. All other items stand as issued.

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.