

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2014-051

Discharge Issued

Character: Under Honorable Conditions (General)

Narrative Reason: Misconduct

SPD/RE Code: JKD / RE4

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

Date of Separation: 2007-10-26

DRB Decision

Character: No Change

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 Non-Participation as a drilling reservist.

The Board reviewed the attendance record using the Reserve point statement and all drills scheduled in the Direct Access database. The drill schedule indicates that the individual had amassed only 12 points out of 50 needed for a satisfactory year for retirement. In the year of discharge, up-to the Discharge date, there were 0 points on record.

The applicant has provided no new information to date. The Board notes the applicant's post- service accomplishments, yet it doesn't mitigate the basis for the Discharge. The Board finds no issues with propriety or equity in this case.

RECOMMENDATION: The Board members thoroughly reviewed the applicant's record of service and all available documentation. The Board deemed that the character of service, reason for separation, and reenlistment code are appropriate and should not be changed. The applicant has not substantiated any error or inequity.

Propriety: Discharge was proper.

Equity: Discharge was equitable.

Board Conclusion: The 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 before 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.