

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2015-045

Discharge Issued

Character: General

Narrative Reason: Miscellaneous / General Reasons

SPD/RE Code: JND / RE4

Authority of Discharge: None entered (N/A)

Date of Separation: 2015-05-05

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:

Discharged for Separation for Miscellaneous/General Reasons.

After accumulating two alcohol incidents, a DUI and public intoxication, the command began processing the applicant for discharge. The command recommended for an Honorable Discharge. Just 1 month later, the command amended the recommendation to read that a General discharge 'may be awarded'.

The Board notes that most or all JND SPD discharges occurring prior to 2015 have received an Honorable discharge. While the Board does unanimously agree that the propriety standard is met, the equity standard brought about a lengthy debate.

Majority Recommendation (by vote of 3-2): Applicant does not deny the incidents that led to the discharge; Rather, seeking an Honorable discharge that was recommended by the command based on a positive evaluation history and overall record. Board notes the following sequence of events:

1. Command intent to discharge. No recommendation made by the command on the type of discharge or character of service. No mention of what 'may' be awarded, but that the final decision rests with USCG Personnel Service Center, Enlisted Personnel Management (PSC epm-1).
2. Acknowledges discharge in waiving the right to a statement, but objecting to the discharge. Makes no mention of what character of service is desired.
3. A separate memorandum titled 'discharge recommendation' is sent directly from the command to (PSC epm-1) recommending an Honorable discharge.
4. An amendment to the earlier memo (item 1 above) is presented to the applicant where wording of a 'general discharge may be awarded' replaces the (PSC epm-1) determination.
5. Consults with a military attorney and will not object to the discharge if an Honorable character of service is received.
6. Separation orders are authorized PSC epm-1 with Under Honorable Conditions as the approved character of service.

7. Officially discharged from the service.

The Majority Board finds that presenting the applicant with a 'you might receive a General discharge' after the initial intent to discharge 30 days prior demonstrates clear inequities toward the command's 'silent' recommendation (not shared or presented to the applicant), and the applicant being afforded all of the details upfront to make an informed statement or rebuttal. The sequence highly suggests that the command's silent recommendation to the Separation Authority was never considered and quickly dismissed. Thereafter, the wording removal of 'PSC as the final determination' (in item 4) was replaced with the 'possibility of a General Discharge' (Separation Authority's initial and final opinion).

The Board notes that the separation authority will terminate employment for cause and may ultimately disagree with the command recommendation on final determinations; however, the Board notes that command recommendations should not be stamped out or silenced altogether.

The Board advisory opinion notes that the first intent to discharge memo to the applicant should have had all of the following items:

- Command recommendation for the applicant's character of service as Honorable
- Wording that a 'General discharge with Under Honorable Conditions character of service may be awarded'.
- Final determination rests with PSC

Due to those items appearing at different segments of the discharge counseling process whilst interchanging them, the character of service issued does not meet the equity standard. The Majority board recommends an upgrade to an Honorable Discharge. A reentry code of RE-4 shall remain as issued.

Minority Recommendation (by vote of 2-3): The Minority Board finds no issues with propriety or equity in this case. No relief other than an administrative change to Under Honorable Conditions for the character of service listed in Block 24 of the applicant's DD-214. Per previous policy issued in ALCOAST 562/08, a General discharge is no longer considered an official character of service. Therefore, the board recommends amending Block 24 to an Under Honorable Conditions character of service.

The cause for the error was due to the Direct Access upgrade to the 9.1 version in which the programmers listed General vice Under Honorable Conditions as an option for Block 24. The list of entries for Block 24 has since been reprogrammed by COMDT (CG-631). All other items stand as issued.

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

Minority Board recommendation: The Minority Board voted 2-3 to recommend the following changes:

DD-214 Item Board Decision

Discharge Under Honorable Conditions (Minority Vote 2-3)
Authority COMDTINST M1000.4, Art 1.B.15
Separation Code No Change
Re-entry Code No Change
Narrative Reason No Change

Majority Board recommendation: The Majority Board voted 3-2 to recommend the following changes:

DD-214 Item Board Decision
Discharge Honorable (Majority Vote 3-2)
Authority COMDTINST M1000.4, Art 1.B.15
Separation Code No Change
Re-entry Code No Change
Narrative Reason No Change

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.