

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2016-052

Discharge Issued

Character: General

Narrative Reason: Completion of Required Active Service

SPD/RE Code: JBK / RE4

Authority of Discharge: COMDTINST M1000.6A, Art. 12-B-12

Date of Separation: 2015-08-25

DRB Decision

Character: Honorable

Narrative Reason: No Change

SPD/RE Code: No Change / RE3

New Authority: No Change

Discharge Review Board Discussion and Decision:

DISCUSSION:

The Applicant was discharged.

The applicant and their attorney appeared in person. After a brief introduction, the Board President stated the roles and responsibilities of the Coast Guard Discharge Review Board (DRB). The applicant's attorney introduced themselves, and for the record stated that they are serving in the U. S. Army Reserve but was not representing the applicant in that capacity. The applicant was sworn in by the recorder.

The applicant and their attorney made the argument that the applicant was separated without an Administrative Separation (ADSEP) Board that he was otherwise entitled to. At the time of separation, the applicant had over 8 years of service as per Military Separations, COMDTINST M1000.4; the reason the applicant was separated was due to end of enlistment and the applicant was ineligible for reenlistment due to the same issues which would have required the ADSEP Board and process. The applicant petitioned the DRB that ALCOAST 093/14 - Implementation of Additional Reenlistment Criteria, set forth further disqualifying factors for reenlistments/extensions. The Counsel claims that even though the applicant did not meet the eligibility criteria for reenlistment, the applicant was not afforded their right to an ADSEP Board and was unable to advocate for their Characterization of Service which was unjustly issued as Under Honorable Conditions.

The applicant defended their position using the language in ALCOAST 274/15, which amended ALCOAST 093/14 Reenlistment Criteria. This ALCOAST eliminated the ADSEP Board for members who do not meet the reenlistment criteria and have 8 or more years of total service. Their argument is that this message, ALCOAST 274/15, did not exist when the ADSEP Board proceedings began. Further, the ADSEP Board proceedings placed the applicant and their counsel on notice that they would be afforded an ADSEP Board as offered in policy. When the ALCOAST was issued, the convening authority stopped all preparations for the proceedings and elected to allow the applicant's enlistment to expire without a Reenlistment Board.

Since ALCOAST 274/15 implemented policy that would enable the Service to separate the applicant without any formal proceedings, it also required that the applicant be processed for separation under the same process as if they had less than 8 years of service. This process requires that the applicant be afforded the opportunity to submit a statement via the chain of command. At the time of separation, the applicant claims they were no longer co-located with their command due to treatment and was not counseled nor afforded any process after being notified that they would not receive a formal proceeding.

The applicant's attorney's legal opinion is that the applicant's original enlistment of Honorable service should not be taken away. With that statement the applicant's attorney referenced that the applicant extended their enlistment and would have been entitled to an honorable discharge if they would have reenlisted. The applicant's attorney argued that the CG is statutorily required to evaluate the applicant's service during their original term of enlistment, not their extension. The applicant's attorney also mentioned that the applicant was diagnosed with Post-Traumatic Stress Disorder prior to his separation from the Coast Guard and that this case should closely be reviewed as per the Office of the Under Secretary of Defense memo. Medical documentation was submitted as evidence. The applicant and their attorney produced evidence that at the time of separation Frequently Asked Questions indicated that those processed for separation due to end of enlistment would be issued an honorable discharge. Additionally, the policy in force per ALCOAST 093/14 was that the applicant should have received an RE-3 reenlistment code at a minimum, not an RE-4.

The applicant made a verbal statement to the Board. In their statement they described their time in the Coast Guard, the difficulty they faced abstaining from alcohol and their struggles with mental health. The applicant also discussed how they were not allowed to advocate for their Character of Service. On multiple occasions the applicant tried discussing this topic with their Commanding Officer but was unsuccessful. The applicant presented medical evidence that prior to their discharge they were in fact diagnosed with PTSD and placed on limited duty. The applicant stated that this diagnosis was not considered by their chain of command since they were being processed for discharge and was not co-located with their unit.

After a discussion and answering a few questions for the Board, the applicant and their attorney were dismissed.

Members of the Board deliberated the case as well as policy in force. Policy that was considered to be in play at the time of the applicant's separation was ALCOAST 093/14, ALCOAST 274/15, Enlisted Accessions, Evaluations, and Advancements, COMDTINST M1000.2A and Military Separations, COMDTINST M1000.4. They reviewed policy and how it impacted the applicant's right to an ADSEP Board. The Board determined that the new policy should not retroactively apply in this case and the consideration of policy in force at the time was sufficient to provide a baseline for the evaluation of propriety and equity.

The Board has no issues with propriety in this case.

On the equity standard, the board evaluated several facts of the case. First, the discharge proceedings for this case were governed under the policy set forth by ALCOAST 093/14. At the time, the chain of command determined that the applicant was afforded an ADSEP Board, properly notified the member of such and began the proceedings. The convening authority stopped these proceedings and followed ALCOAST 274/15 to allow the applicant's enlistment to expire without any proceeding but did not begin processing the applicant in accordance with policy under the procedures for members who are not afforded a Reenlistment Board. The Board found no evidence that the applicant had been afforded the opportunity to make a statement. The discharge procedures followed by the chain of command did not indicate the member was engaged in the process nor appropriately counseled. The Board also considered the policy language set forth by the ALCOAST and information provided to the member via the Frequently Asked Questions which indicated an end of enlistment separation, at the time, would result in an Honorable discharge with an RE-3 separation code.

The Board also reviewed the 10 U.S.C. 1553 and a memorandum from the Office of the Under Secretary of Defense for Personnel and Readiness with guidance to the DRB specific to members who are being separated for cause and have been diagnosed with PTSD. While the applicant's condition did not manifest itself as a result of contingency operations, there is evidence the member's diagnosed mental condition contributed to the issues which lead to their separation.

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

Propriety: Discharge was proper.

Equity: Discharge was not equitable.

Board Conclusion: The Board voted 5-0 to recommend the following relief:

Character of Service: Honorable
Reentry Code: RE3

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.