

## UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2017-053

### **Discharge Issued**

**Character:** Other Than Honorable Conditions

**Narrative Reason:** Misconduct

**SPD/RE Code:** HKQ / RE4

**Authority of Discharge:** COMDTINST M1000.4 Art 1.B.17

**Date of Separation:** 2015-10-15

### **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 and their attorney appeared in person. After a brief introduction, the Board President discussed rules, and the roles and responsibilities of the Coast Guard Discharge Review Board. The Board President asked the applicant if they wanted to make a sworn statement and their response was no. The applicant's attorney began to speak about the applicant's service record along with the evidence that was submitted to support their case. The applicant's attorney addressed some facts and proceedings pertaining to the applicant's case, specifically the Summary Court-Martial and that the Applicant was denied participation in the Second Chance Program. The attorney stated that their client was not afforded the opportunity to have council prior to the review and signing of the Pre-Trial Agreement (PTA) and that the applicant was offered the PTA on Friday before the Monday when the trial was supposed to start. The applicant stated to the Board that some of the charges annotated in the PTA should not be listed because those charges were dropped.

The applicant proceeded to discuss their performance while serving in the Coast Guard. The applicant relayed that they did not receive NJP and their performance evaluations consisted of 6s and 7s. The applicant discussed their assigned units both in CONUS and OCONUS, and described the qualifications they earned. Lastly, the applicant advised the Board that they believe their Command used Unlawful Command Influence when the applicant was escorted from a unit all-hands meeting, which played a factor in the Character of Service (Under Other Than Honorable) the applicant received on their DD Form 214. 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 policies in force. The basis of the applicant's separation was a result of Misconduct due to a Commission of a Serious Offense. The applicant was scheduled for trial by Special Court-Martial for specifications of Article 93 (cruel and maltreatment), Article 120 (abusive sexual contact) and Article 128 (assault consummated by battery) of the UCMJ. After the applicant's case was litigated for several months, the applicant pled guilty to four specifications of Article 93 at a Summary Court-Martial and unconditionally waived their right to an administrative discharge board. The Board thoroughly reviewed the PTA. The Board believes the applicant had full knowledge and understanding of the effects and the contents in the PTA, specifically the possibility of receiving an Under Other Than Honorable Character of Service. The Board reviewed the Second Chance Program policy set forth in the Military Separations, COMDTINST M1000.4. The policy applies to first-term performers and authorizes the first flag officer/SES in the chain of command of the first-term performer to waive policy discharge authorities (there are some policy exclusions). The Applicant was serving on an extension to their enlistment at the time of separation.

The Board has no issues with equity or propriety in this case. The Applicant was notified of the intent to involuntary discharge, and the applicant was advised of the rights to an attorney. The applicant made a statement and did not desire to be discharged.

**RECOMMENDATION:**

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

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.