

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2018-019

Discharge Issued

Character: Honorable

Narrative Reason: Fraudulent Entry

SPD/RE Code: JDA / RE4

Authority of Discharge: COMDTINST M1000.4 Art 1.B.13

Date of Separation: 2016-09-15

DRB Decision

Character: No Change

Narrative Reason: Condition, Not a Disability

SPD/RE Code: JFV / RE3G

New Authority: COMDTINST M1000.4 Art 1.B.12

Discharge Review Board Discussion and Decision:

DISCUSSION:

The applicant was discharged for Fraudulent Entry Into Military Service after serving a total of 1 year, 2 months, and 2 days on Active Duty.

The Board thoroughly reviewed all documentation available in the member's service record. The applicant's Character of Service is Honorable and the separation authority listed on the DD-214 is COMDTINST M1000.4 Article 1.B.13. The SPD handbook prescribed an RE Code of RE4 for an SPD Code of JDA.

The applicant seeks relief to their DD-214, which currently reflects a discharge on grounds of Fraudulent Entry Into Military Service. The former member's discharge was based on the circumstances of their medical diagnosis of somnambulism (sleepwalking). The applicant's files do not provide any additional information surrounding the circumstances of their discharge. There are conflicting recommendations for discharge on two separate memos addressed to the applicant which contain two different recommendations for discharge. The first memo and the discharge is pursuant to the provisions of Article 1.B.12a(12) of reference (a), Convenience of the Government-Somnambulism along with Article 5 A.18(g)(1) of reference (c). The second memo and the recommendation for discharge is pursuant to the provisions of Article 1.B.17.b(5) of reference (a), Misconduct-Fraudulent Enlistment. The applicant's Separation Authorization lists the following: Article/Law as 1-B-17 Misconduct; Sep/Ret Type as Fraudulent Enlistment; and the DD214 as JDA Fraudulent Entry into Military Service. However, the applicant's stand-alone DD214 lists the Separation Authority in line item #25 as COMDTINST M1000.4.1.B.13 along with JDA as the Separation Code in line item #26 and Fraudulent Entry into Military Service as the Narrative Reason for Separation in line item #28.

The applicant marked on their application that they would like to change their Narrative Reason for Separation from Fraudulent Entry into Military Service to Convenience of the Government and stated they were discharged for sleepwalking. The applicant also included a letter from the VA denying them benefits.

The Board conducted a thorough review and determined there were several errors and inconsistencies made on the discharge paperwork including the Separation Authority and DD-214. Based on the former member's diagnosis of somnambulism and according to policy, the discharge would fall under the provisions of Article 1.B.12a(12) of reference (a), Condition, Not A Disability-Somnambulism. The corresponding SPD and RE Code respectively are JFV and RE-3G.

The Board finds error of fact in the discharge proceedings. There have been no relevant policy changes subsequent

to the discharge date that are unique to this case. While the discharge of the applicant was substantiated, it deviated from the established standards of discipline. The applicant was discharged due to Fraudulent Entry Into Military Service, pursuant to 1.B.13. The former member did not satisfy the criteria for an RE-4 reenlistment code. The applicant furnished substantial evidence of impropriety and inequity in their case.

The former member should receive an RE-3G reentry code which signifies that the applicant has a condition (not physical disability) interfering with performance of duty. The applicant is eligible for reenlistment if the gaining service approves a waiver. The Board finds issues concerning the propriety and equity of the discharge. Provisions of Article 1.B.12a(12) of reference (a), Condition, Not A Disability-Somnambulism. The corresponding SPD and RE Code respectively are JFV and RE-3G.

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RECOMMENDATION:

MAJORITY OPINION:

The majority opinion (5 members) recommended that the applicant's Narrative Reason for Separation, Separation Code, Re-entry Code and Authority be changed to match the Coast Guard's policy regarding somnambulism. The Board's comprehensive review of the applicant's discharge has revealed errors in policy. The Board has determined that the discharge was not consistent with established disciplinary standards. In particular, the Board deemed that the applicant's Narrative Reason for Separation, Separation Code, Reentry Code and Authority are not appropriate and should be changed. Ultimately, the Board finds the separation was inequitable and improper.

SUMMARY:

The Board members thoroughly reviewed the applicant's record of service and all available documentation and evidence. The Board deemed that the applicant's Narrative Reason for Separation, Separation Code, Re-entry Code and Authority should be changed. There was an issue of equity and propriety in this case where the applicant substantiated error in the way the discharge was processed on paper including member's DD-214 and Separation Authority.

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.