

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD
Docket #: 2018-051

Discharge Issued

Character: Under Honorable Conditions (General)

Narrative Reason: Misconduct

SPD/RE Code: JKK / RE4

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

Date of Separation: 2017-11-13

DRB Decision

Character: No Change

Narrative Reason: No Change

SPD/RE Code: JKM / No Change

New Authority: No Change

Discharge Review Board Discussion and Decision:

ISSUES: The Applicant requests relief of their issued Reentry (RE) Code of RE-4 to RE-3 on the basis that it was unnecessarily harsh and the impact it has on employment opportunities. The Applicant expresses regret and feels lesser action should have been taken than the issuance of a discharge.

A discharge is deemed proper unless the applicant can show 1) an error of fact, law, procedure or discretion associated with the discharge that prejudiced their rights; or 2) there has been a change in policy made expressly retroactive to the type of discharge under consideration.

A discharge is presumed to be equitable unless the applicant can show 1) the policies and procedures under which the applicant was discharged differ in material respects from current policy; 2) the discharge was inconsistent with standards of discipline at the time of separation; or 3) the evidence presented does not fairly support the type of discharge.

In reviewing the evidence, the DRB considered 1) the quality of the applicant's service, 2) the applicant's capability to serve, 3) any evidence of arbitrary, capricious, or discriminatory actions against the applicant, or 4) any other relevant information relating to the applicant's discharge.

DISCUSSION: The Applicant was discharged in November of 2017 for Misconduct after serving a total of 01 Years, 0 Months, and 19 Days on Active Duty. The Board thoroughly reviewed all documentation available in the Applicant's service record. The Applicant's Character of Service is Under Honorable Conditions (General). IAW guidance from Personnel Service Center, (PSC), it prescribed an RE Code of RE4 for an SPD Code of JKM.

The Applicant was discharged from the Coast Guard due to misconduct related to drug involvement. The incident occurred at a United States Coast Guard Station. Following a breakup with their then-

girlfriend, the Applicant consumed three bottles of over-the-counter cough medicine to cope with their emotions, resulting in severe physical distress. Subsequently, the Applicant was transported to a local hospital. During the investigation, the Applicant admitted to their actions, leading to their discharge in accordance with the Coast Guard's zero-tolerance drug policy.

The Applicant is requesting relief to their RE Code, claiming that a RE-4 (not eligible for reenlistment) is unjust and unnecessarily harsh. The Applicant states that they made a mistake; however, they believe they should have been given a second chance considering it was an isolated incident and no one was hurt.

During the Applicant's testimony and discussion with the Board, the Applicant clarified that their actions were not driven by suicidal intent and highlighted the support they received from shipmates without any adverse interactions with the command. They also expressed remorse and emphasized the negative impact of their RE-4 on their employment opportunities, particularly in relation to police departments. The Applicant did not provide any evidence of inequity or impropriety regarding their separation from the Coast Guard.

RECOMMENDATION

MAJORITY OPINION: The majority opinion (4 members) recommended that the Applicant's RE Code not be upgraded from RE-4 to RE-3 and found that the Applicant's Character of Service and SPD Code matched the Coast Guard's policy regarding drug incidents.

The Board acknowledged the Applicant's age and personal circumstances, particularly the breakup with their girlfriend, showing sympathy. They also discussed the deliberate premeditation in obtaining multiple bottles of cough medicine from different sources to avoid detection. Ultimately, the majority of the Board found the Applicant's separation is in line with COMDTINST M1000.4 Art. 1.B.17 for violating the Coast Guard's drug policy and found no errors of fact, law, discretion, or procedure. Commander, PSC properly found under a preponderance of the evidence that the Applicant knowingly ingested three bottles of over-the-counter cough medicine which carries as a penalty, a punitive discharge. The Applicant was properly awarded an Under Honorable Conditions (General) characterization for the drug incident as defined in COMDTINST M1000.10 Art. 1.A.2.k(1)(d) IAW COMDTINST M1000.4 Art. 1.B.17. The RE Code and Narrative Reasons were properly awarded IAW guidance from Personnel Service Center, (PSC). There have been no relevant policy changes made expressly retroactive to this type of discharge.

The Applicant failed to provide sufficient evidence to overcome the presumption that his discharge was equitable. In support of his application, he submitted 1) a letter from the CG to a member of Congress regarding Applicant's case; 2) his previously submitted statement regarding the events leading to his separation; 3) a post-service certificate; 4) a resume; 5) email correspondence with the DRB, and 6) his DD-214. None of these documents speak to the equity or inequity of his discharge under 33 C.F.R. 51.7 or 51.8.

DISSENTING OPINION: In a dissenting opinion, a single board member recommended upgrading the Applicant's RE Code from RE-4 to RE-3. The minority member acknowledged that the Coast Guard adhered to policy and treated the Applicant equitably. Expressing sympathy, the dissenting member regarded the Applicant's choice as unfortunate, recognizing the long-lasting impact on their life and advocating for leniency in light of their mistake.

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 RE Code is appropriate and should not be changed. The Applicant has not substantiated impropriety or inequity.

Administrative Correction: The Board does recommend an administrative correction to Block 26 of the DD-214 for SPD Code to be administratively corrected from JKK to JKM, which is the correct code IAW guidance from Personnel Service Center (PSC), for this Applicant noted drug incident.

Propriety: Discharge was proper.

Equity: Discharge was equitable.

Board Conclusion: The Board voted 4-1 for no relief.

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.