

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD
Docket #: 2020-013

Discharge Issued

Character: Under Honorable Conditions (General)

Narrative Reason: Misconduct

SPD/RE Code: JKQ / RE4

Authority of Discharge: COMDTINST M1000.4 ART 1.B.11

Date of Separation: 2020-02-03

DRB Decision

Character: No Change

Narrative Reason: No Change

SPD/RE Code: No Change / No Change

New Authority: COMDTINST M1000.4 Art 1.B.17

Discharge Review Board Discussion and Decision:

ISSUES: The applicant is seeking an upgrade to their discharge characterization as well as their reentry code. The applicant states that their current reentry code is unfair because the incident in question wasn't "heinous enough" to warrant an RE4. The applicant also states that their chain of command recommended them to receive an RE1. The applicant stated that if they made the same mistakes in the United States, there would have been no issue, and they feel as though they only received an RE4 as a technicality. The applicant provided a copy of their Army DD214 as evidence of their good conduct and a testament to their character.

DISCUSSION: The applicant was discharged for misconduct following an alcohol incident that occurred while overseas. The applicant was arrested after becoming belligerent and provoking other bar patrons. When police arrived on scene, they found the applicant to be highly intoxicated. While police were attempting to effect an arrest, the applicant intentionally "headbutted" a police officer in the face. This attack caused multiple officers to attempt to restrain the applicant. During the struggle, the applicant spat on a second officer. The incident led to the applicant serving three weeks in prison, after which they were released to immigration and deported back to the United States. During this time, the applicant was in an unauthorized absence status. The applicant received an alcohol incident documented in a negative CG-3307 and was subsequently processed for discharge.

The applicant was processed for discharge for misconduct owing to the commission of a serious offense in accordance with COMDTINST M1000.4 Article 1.B.17. They were advised of the intent to discharge in a memo and advised of their right to seek counsel due to being considered for an Under Honorable Conditions Discharge. The applicant did not object to the discharge. Commander, CG-PSC established under a preponderance of evidence that the applicant committed a serious offense in striking a police officer and spitting on another and supported their finding with the arrest of the applicant. The maximum penalty for the commission of a serious offense includes a punitive discharge. The applicant ultimately

received an Under Honorable Conditions discharge with a narrative reason of Misconduct, an SPD code of JKQ, and a reentry code of RE4.

The Board finds the applicant's claim of inequity that they do not believe their crime was heinous enough for severity of the disciplinary action taken against them, is erroneous. The applicant was arrested for assaulting two police officers, which amounts to the commission of a serious offense in accordance with COMDTINST M1000.4 Article 1.B.17(b)(3)(a)(1). A separation for the commission of a serious offense is warranted when an offense is established by a preponderance of the evidence and the offense warrants separation. The Board reviewed the applicant's record and evidence submitted, along with the regulations under which the applicant was discharged and found that an Under Honorable Conditions characterization is fairly justified for members found to have committed a serious offense and were subsequently separated in accordance with COMDTINST M1000.4 Article 1.B.17(b)(3). In addition, an RE4 is fairly justified for members discharged for misconduct with an SPD code of JKQ in accordance with the Separation Program Designator (SPD) Handbook.

The Board finds no error of fact, law, discretion, or policy in this discharge. There have been no relevant policy changes since the date of discharge that are unique to this case. The discharge of the applicant was justified and consistent with the standards of discipline. The Board finds no issues concerning the propriety or equity of the discharge.

RECOMMENDATION: The Board members thoroughly reviewed the applicant's record of service and all available documentation. The Board deemed that the applicant's discharge characterization and reentry code are appropriate and should not be changed. The applicant has not substantiated any error or inequity.

Propriety: Discharge was proper.

Equity: Discharge was equitable.

Board Conclusion: The Board voted 3-0 for NO RELIEF

ADMINISTRATIVE CORRECTION: The Board does recommend an administrative correction to Block 25 of the DD-214 for separation authority to be administratively corrected from COMDTINST M1000.4 Article 1.B.11 to COMDTINST M1000.4 Article 1.B.17 which is the correct authority for a discharge by reason of misconduct.

² 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.