

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2020-016

Discharge Issued

Character: Under Honorable Conditions (General)

Narrative Reason: Pattern of Misconduct

SPD/RE Code: JKA / RE4

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

Date of Separation: 2015-07-06

DRB Decision

Character: Honorable

Narrative Reason: Completion of Required Active Service

SPD/RE Code: Change / RE1

New Authority: Change

Discharge Review Board Discussion and Decision:

DISCUSSION:

The applicant was discharged from the United States Coast Guard subsequent to a term of service lasting 6 years and 3 months.

This separation was executed upon the completion of obligated service. However, the former member received a General discharge due to a pattern of misconduct.

The former member underwent Non-Judicial Punishment (NJP) proceedings due to the violation of multiple articles of the Uniform Code of Military Justice (UCMJ), including Articles 86, 90, 92, and 81. The former member traveled beyond authorized boundaries during hurricane Condition 3 without obtaining authorized leave, contrary to directives issued by a superior commissioned officer. These actions also resulted in a breach of regulations mandating proximity to the designated Station within two hours. Furthermore, the former member failed to adhere to regulations concerning the acquisition of emergency leave. Consequently, the former member was subjected to a 14-day restriction and assigned 10 days of additional duty. The former member reported for duty late and exhibited residual signs of alcohol abuse, contravening COMDTINST M1000.10 and the unit's liberty policy. This led to a second instance of NJP, in which the former member was determined to have violated Article 92 of the UCMJ pertaining to the failure to obey a lawful general order or regulation. The former member was subjected to a 60-day restriction and reduced to the rank of E-3, the latter penalty being deferred until the end of their enlistment.

Upon the conclusion of their enlistment, the former member was discharged; however, the discharge narrative was listed as a pattern of misconduct with an SPD code of JKA. The former member contends that they should have received a Form DD214 upon fulfilling their initial contract and executed a new enlistment rather than an extension, which resulted in the absence of a Form DD214 indicating Honorable service. The former member asserts that no formal documentation regarding the command's intent to execute a discharge was provided to them. Moreover, the former member asserts that the provided justification for the discharge lacks validity, as there exists a period exceeding 4 years in which the former member experienced no other occurrences of NJP. These incidents are deemed insufficient to establish a consistent pattern of misconduct IAW 1.B.17.b.2.

Throughout the entirety of the former member's service, they earned numerous commendations and consistently received above average ratings. The former member's evaluations began to reflect below-average performance in select categories, resulting in non-recommendation for advancement. The former member has included their resume and the most recent employment evaluation. Throughout the entirety of the former member's service, they earned numerous commendations and consistently received above average ratings. The former member's evaluations began

to reflect below-average performance in select categories, resulting in non-recommendation for advancement. The former member has included their resume and the most recent employment evaluation, demonstrating proactive efforts to rectify their behavioral tendencies.

The Board discussed the applicant's claim that they should have been allowed to complete their first enlistment and afforded an opportunity to sign a new enlistment, as opposed to signing an extension which would have allowed them to receive a DD 214 reflecting honorable service. The Board determined that this matter lacks merit, as established policy was followed to ensure members meet service obligations for acceptance of training orders. The former member also contended that the command failed to provide them with their intent to deny the member the opportunity to reenlist and instead discharge them at the end of their enlistment. Commanding Officers provide members with 3307's notifying the member that they will not be recommended for reenlistment however the former member was not provided with this documentation. The board found that inaction to be improper IAW 1.B.17.e.

Additionally, the former member claimed that they did not display a pattern of misconduct. Per COMDTINST M1000.4 Art 1.B.17, a pattern of misconduct is defined as comprising of two or more instances of non-judicial punishments within a two-year timeframe, three or more unauthorized absences (each at least three or more days) within two years, six or more unauthorized absences (at least six days) within two years, a pattern of failure to contribute adequate support to dependents, or a pattern of failure to pay just debts. The Board concluded that the former member's record did not meet this criterion. Consequently, the Board deemed the narrative reason for discharge to be improper.

The applicant also argued that disobeying a lawful order is not a serious offense. As there is no evidence in the applicant's record of being separated for a serious offense, this argument is null and void. The applicant stated that there should be no presumption of regularity in the proceedings due to missing records. The applicant also states that their overall record should be taken into account as it reflects highly of their career. The Board thoroughly reviewed the applicant's entire available service record in addition to the provided documentation when making a determination. Missing documents of importance, as well as personal achievements, were noted by the Board.

The Board finds error of 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 not justified and is not consistent with the standards of discipline. The applicant was separated for Pattern of Misconduct IAW 1.B.17.b.2. The former member did not meet the standard for a pattern of misconduct as they did not meet any of the listed criteria. Moreover, the applicant was not provided with the Command Officer's intent to discharge them upon completion of their enlistment (IAW 1.B.17.e), thereby depriving them of the opportunity to contest the decision. The applicant provided significant evidence of impropriety or inequity.

A separation code of JKA is authorized when a member is found to have demonstrated a pattern of misconduct. Pursuant to the SPD Handbook, an RE4 is the appropriate code for an SPD code of JKA. In case of the former member, they did not exhibit a pattern of misconduct therefore a separation code of KBK "Completion of required active service (voluntary discharge) would be more appropriate, along with an RE1 reenlistment code. The authority for this discharge should be changed to COMDTINST M1000.4 Art 1.B.11.

An RE1 reentry code signifies that the applicant is Eligible for Reenlistment. The Board finds 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 reentry code is not appropriate and should be changed. The applicant has substantiated 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.