

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2020-043

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: 2018-01-18

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 was discharged for misconduct after being convicted in a summary court-martial for a violating UCMJ Article 120 (abusive sexual contact).

The applicant being fully advised by legal counsel, waived an administrative separation board and pled guilty to five counts of violating UCMJ Article 120 stemming from inappropriate and unwanted touching of other member's genitals. The applicant was sentenced to 30 days confinement and a reduction in rank to E2.

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. The applicant waived their right to receive the notice to respondent and to make a statement. They were advised of and provided counsel during court martial proceedings due to being considered for an Other Than Honorable discharge. The applicant agreed to plead guilty to all charges providing the convening authority agreed to withdraw all charges referred to special court-martial and instead refer all charges for disposition at summary court-martial. Commander, CG-PSC established the applicant committed a serious offense in violating Article 120 UCMJ and supported their finding with the results of the court-martial. The maximum penalty for the commission of a serious offense includes a punitive discharge. The applicant ultimately received an Other Than Honorable discharge with a narrative reason of Misconduct, an SPD code of HKQ, and a reentry code of RE4.

The Board examined the applicant's separation under COMDTINST M1000.4 Article 1.B.17 for the commission of a serious offense and found no errors of fact, law, discretion, or procedure. Commander, PSC properly found that the applicant violated UCMJ Article 120 which carries as a penalty, a punitive discharge. The applicant was properly awarded an Other Than Honorable characterization in accordance with COMDTINST M1000.4 Article 1.B.23. The Separation Program Designator (SPD) code, reentry code, and narrative were all properly awarded in accordance with the SPD Handbook. An SPD code of HKQ is awarded to members involuntarily discharged for misconduct in lieu of further proceedings when a member has committed a serious offense and was properly awarded in this case. There have been no relevant policy changes made expressly retroactive to this type of discharge and the applicant has not made any inequity claims.

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 separation 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 4-0 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.