

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD
Docket #: 2020-055

Discharge Issued

Character: Under Honorable Conditions (General)

Narrative Reason: Misconduct

SPD/RE Code: JKQ / RE4

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

Date of Separation: 2018-09-10

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:

Issues: The applicant request a character of service upgrade because they implied there was an error in process because the civilian charges for domestic violence had been dropped and therefore the applicant claims there was no violation for Command to review.

Board's Discussion and Conclusion

DISCUSSION: The applicant was discharged by reason of misconduct for commission of a serious offense.

The applicant was discharged from service on 10 Sep 2018 following a period of 2 years, 5 months, and 13 days, as a result of a domestic altercation. A local Police Department responded to a report of an ongoing dispute between the applicant and their spouse, transpiring within Coast Guard housing. The police report noted that upon their arrival, the officers observed visible signs of redness, bruising, and a laceration on the spouse's neck, throat, and finger, respectively. The applicant asserted that the altercation remained limited to verbal exchanges and attributed the observable injuries sustained by their spouse to the spouse's voluntary act of throwing themselves down while responding to the applicant's attempt to calm the spouse with a hug. In contrast, the applicant's spouse presented an alternative account, asserting that the verbal altercation did escalate into physical aggression, which was instigated by the applicant, though the spouse did later recant this original statement.

Subsequently, the applicant was taken to jail and spent the night in custody, with a no contact order being issued. The applicant's spouse was interviewed by the county District Attorney, offering a divergent account of the incident. Moreover, the spouse provided a written statement to the Coast Guard, disavowing victimhood of domestic assault and attributing the bruises to the prior day's wrestling session. Consequently, the no contact order was rescinded.

A Coast Guard Incident Determination Committee (IDC) convened to review an allegation of maltreatment involving the applicant and their spouse. The IDC determined that the incident did not satisfy the criteria for intimate partner physical maltreatment. Furthermore, the charges brought by the state were subsequently dismissed.

Nevertheless, the applicant's command ascertained that the individual had contravened UCMJ Article 128, Assault, utilizing the police report and the contained statements as evidence, thereby establishing, by a preponderance of the evidence, the elements substantiating the applicant's infliction of bodily harm upon their spouse through unlawful force or violence. Consequently, a general discharge for misconduct was rendered, due to the commission of a serious offense.

The purpose behind a military court system separate from a civilian court system is to ensure procedures essential to military discipline and order as some criminal offenses are unique to the military. Commanders can initiate administrative separation actions against military members for the commission of a serious offense. Board proceedings are administrative in nature and the Board is not bound by formal rules of evidence. Thus, the Board reviews the Command's process of discharge to determine its conformity with CG policy and concurs the discharge was both proper and equitable.

The Board discussed the evidence surrounding the alleged assault within the context of this specific case and determined the Command had a preponderance of evidence to bring forth the separation. The Board also concluded that the Coast Guard adhered to the appropriate procedures as stipulated in COMDTNIST M1000.4 Art. 1.B.17.b. The applicant's discharge is deemed appropriate as it was IAW applicable regulations and relevant CG policy. The Command established that the applicant committed a serious offense by violating UCMJ Article 128, Assault, which carries a maximum punishment of a Dishonorable discharge.

The applicant was separated for a commission of a serious offense and was assigned a correct separation code of JKQ in connection to their discharge. The SPD Handbook prescribes an RE4 for members discharged with a code of JKQ. The Board finds an RE4 is the proper reenlistment code for this discharge. The applicant provided no independent corroborating evidence demonstrating; that either the Command's action was improper or inequitable.

RECOMMENDATION: The Board members thoroughly reviewed the applicant's record of service and all available documentation. The Board deemed that the applicant's character of service, reason for separation and reenlistment 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.