

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2021-012

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: 2019-01-10

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:

DISCUSSION:

The applicant was discharged for Commission of a serious military or civilian offense.

The former member engaged in abusive sexual contact with the dependent spouse of another Coast Guard member. The former member touched the victim's groin and inner thigh through their clothing. The contact was initiated without the victim's consent, and despite their repeated requests for the former member to stop, the former member continued the abusive sexual contact. The former member, however, presented a different account of the events, asserting that only the victim's thigh was touched, and that the former member promptly ceased the contact upon being instructed to stop. In light of the aforementioned incident, the Coast Guard offered the former member the opportunity to separate through a process known as separation in lieu of trial (SILT). Under this option, the former member would have left the Coast Guard with an Other Than Honorable discharge. The former member, however, rejected the SILT option and instead opted to proceed with a court-martial. However, due to various reasons, the allegation against the member did not proceed to court martial. The command then provided notice to the former member that they would initiate an administrative separation based on a finding by a preponderance of the evidence that the member committed serious misconduct. As part of the separation process, the former member was granted the opportunity to be heard through personal narrative. The command reviewed such information and determined the separation for misconduct due to a commission of a serious offense should proceed.

The Board discussed the former member's acknowledgment of non-consensual touching of the victim's thigh. The Board also discussed the former member's decision to decline separation in lieu of trial (SILT) and proceed with a court martial. Although the case ultimately did not proceed to court martial, the member was provided opportunity to present a defense during their administrative separation. Nevertheless, the command still found by a preponderance of the evidence that the member committed serious misconduct, and that the separation should proceed. While character references were presented to attest to the former member's diligent work ethic, they do not serve as evidentiary support to mitigate the former member's actions and lack of sound judgment. Consequently, the Board determined that no relief was justified.

The applicant was found by a preponderance of the evidence to have participated in misconduct for commission of a serious offense. The maximum punishment for this offense under the UCMJ is a punitive discharge.

The Board does not upgrade a discharge solely on the passage of time, good conduct subsequent to separation, to improve civilian or government employment opportunities, or eligibility for VA benefits (e.g., GI Bill, home loans, medical treatment, or disability payments). Following an investigation, the members command determined by a

preponderance of the evidence that the applicant committed a serious offense for which the penalty is a punitive discharge. The applicant was properly separated for the commission of a serious offense in accordance with COMDTINST M1000.4. An Under Honorable Conditions (General) discharge is consistent with policy outlined in COMDTINST M1000.4 Article 1.B.17 and is the proper discharge characterization.

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 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.

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.