

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2023-003

Discharge Issued

Character: Honorable

Narrative Reason: HOMOSEXUAL ADMISSION

SPD/RE Code: HRB / RE4

Authority of Discharge: COMDTINST M1000.6 Article 12.E.6

Date of Separation: 2009-03-03

DRB Decision

Character: No Change

Narrative Reason: Secretarial Authority

SPD/RE Code: JFF / RE1

New Authority: COMDTINST M1000.6 Art 12.B.12

Discharge Review Board Discussion and Decision:

DISCUSSION:

The applicant was discharged following a homosexual admission after serving a period of four months and 26 days in the Coast Guard.

The former member submitted a written letter to their Commanding Officer (CO) informing them of their homosexuality and their intention to continue the behavior. The CO identified the former member as an above average performer and noted that the reported behavior had no adverse effect on the good order and discipline of the unit. The CO did note suspicion around the timing of the admission and the applicant's prior comments that the only reason they joined the service was for the GI Bill. The admission of homosexuality on their 112th day of service seemed convenient and was highly suspicious according to the CO. After reviewing all exhibits and the applicant's Personnel Data Record (PDR), the Board discussed the fact that applicant was an above average performer with no negative marks. The former member's conduct had no negative impact on the unit or mission readiness. Despite the CO's suspicions about the timing of admission, the Board finds the former member's discharge was solely the result of DADT, which is no longer consistent with Coast Guard policy. Therefore, it is determined that the applicant is a victim of an injustice. While the Board finds no error in the original discharge, the repeal of 10 U.S.C. § 654 and its implementing regulations has made the applicant's separation, reentry codes, and narrative reason for separation inconsistent with current policies and procedures. The policies and procedures under which the applicant was discharged differ in material respect to the policies and procedures currently applicable on a service-wide basis. A discharge due to homosexuality is no longer an appropriate discharge under current policy.

The current policies represent a substantial enhancement of the rights afforded to the applicant. The Board has substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of discharge.

The Board finds the former member should be issued a new DD-214 with the following corrections: the separation authority should be COMDTINST M1000.6A Article 12.B.12 the narrative reason for separation should be "Secretarial Authority"; the separation code should be "JFF"; and the reentry code should be RE1 (eligible for reenlistment). Previously, an RE4 reentry code was authorized to be assigned for this type of separation. An RE4 reentry code signifies that the applicant is not recommended or is ineligible for reenlistment. Due to the repeal of DADT, an RE4 is no longer justified and should be upgraded to RE1.

RECOMMENDATION: The Board members thoroughly reviewed the applicant's record of service and all available documentation. The Board deemed that the applicant's separation authority, separation code, re-entry code, and

reason for separation should be changed. The applicant has sustained an inequity, and their records should be corrected accordingly.

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.