

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD

Docket Number: 2023-027

Discharge Issued

Character: Under Honorable Conditions (General)

Narrative Reason: Misconduct

SPD/RE Code: JKK / RE4

Authority of Discharge: COMDTINST M1000.4 ART 1.B.2F

Date of Separation: 2022-04-29

DRB Decision

Character: No Change

Narrative Reason: No Change

SPD/RE Code: No Change / No Change

New Authority: COMDTINST M1000.4 Art 1.B.17

Discharge Review Board Discussion and Decision:

DISCUSSION: The applicant was discharged for Misconduct after serving a total of 4 Years 7 Months and 4 Days on Active Duty.

The Board thoroughly reviewed all documentation including the applicant's statement. The applicant's Character of Service is Under Honorable Conditions (General) and the separation authority listed on the DD-214 is COMDTINST M1000.4 Article 1.B.2F. The SPD handbook prescribes an RE Code of RE4 for an SPD Code of JKK.

The applicant was discharged for Misconduct after testing positive for THC (marijuana) during a urinalysis test. The applicant initially intended to appeal the discharge and provide a statement on their behalf. The applicant originally stated that the positive test could have resulted from their use of the over-the-counter medicine, Omeprazole. Following a CGIS investigation and while undergoing legal review, the applicant requested to retract their original statement and all supporting documentation. The applicant refused treatment that was recommended by competent medical authorities following the incident. The applicant waived their right to submit a statement on their behalf and did not object to being discharged. The former member also received Non-Judicial Punishment for violations of Article 92 (Failure to Obey a Lawful Order) and Article 134 (Violation of Equal Employment and Opportunity Policy). Following the NJP, the applicant was confined to base and received extra duty for 14 days. The applicant is requesting relief to their discharge characterization, requesting an upgrade to an Honorable discharge. The applicant states that since their discharge, they have reflected on their actions and have worked to improve themselves for the civilian world. The applicant states that an Honorable discharge would allow them to take advantage of higher paying job opportunities to benefit their family life. The former member states that up until the incident in question, they served with integrity and honor. The applicant makes no claims of impropriety or inequity.

The Board discussed the applicant's request for an upgrade to their Character of Service. The Board noted the applicant's refusal for treatment and their lack of objection to being discharged from the Coast Guard. The Board also made note the applicant's claim of prior unblemished service is unsubstantiated due to the NJP received. Regardless, the Coast Guard maintains a Zero Tolerance for Illicit Drug Use. As a Service with a law enforcement mission, it is imperative that we hold ourselves to the highest standards. Per Military Drug and Alcohol Policy, COMDTINST M1000.10, if, after an investigation, the commanding officer determines that a drug incident did occur, Commands will process the member for separation by reason of misconduct. Additionally, these members are subject to disciplinary action under the UCMJ. However, they need not be found guilty at court-martial, in a civilian court, or be awarded NJP for the conduct to be considered a drug incident. Members who have been identified as drug dependent will be offered treatment prior to discharge. If accepted, immediately on completing this treatment,

the member will be discharged from the Service for misconduct.

The Board finds no error of fact, law, 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. MILSEP COMDTINST M1000.4 prescribes no higher than a General, Under Honorable Conditions character of service for individuals separated as a result of violating the Coast Guard's drug policy. The assigned narrative reason of Misconduct is appropriate. The applicant provided no evidence of impropriety or inequity. A separation code of JKK is authorized when a member is found to have been involved in a drug incident. Per the SPD Handbook, an RE4 is the appropriate code for an SPD code of JKK. An RE4 reentry code signifies that the applicant is not recommended or is ineligible for reenlistment. The Board finds no issues concerning the propriety or equity of the discharge.

An administrative error was noted during the review of the applicant's DD214. The Separation Authority currently listed is COMDTINST M1000.4 1.B.2.F. This article is part of the definitions section and lists the definitions for the Standards of Discharge. The proper Separation Authority should be listed as COMDTINST M1000.4 1.B.17 which outlines the discharge policy for Misconduct.

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 is 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.