

UNITED STATES COAST GUARD DISCHARGE REVIEW BOARD
Docket #: 2024-021

Discharge Issued

Character: Honorable

Narrative Reason: Homosexual Act

SPD/RE Code: HRA / RE4

Authority of Discharge: COMDTINST M1000.6 Article 12.B.18

Date of Separation: 2010-02-24

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:

ISSUES: The applicant seeks an upgrade to their separation code, reentry code, and narrative reason for separation. The applicant states that due to their sexual orientation, they were given unequal treatment and suffered discrimination, denial of benefits, and public humiliation in regard to their discharge. It should be noted the applicant marked PTSD, Sexual Assault/Harassment, and Intimate Partner Violence/Domestic Violence on their application as an issue relating to their discharge. The applicant made no claims in their application of the above-mentioned conditions and additionally provided no evidence to support these assertions. As such, the Board has examined whether the applicant was separated pursuant to Don't Ask, Don't Tell (DADT), and whether this separation was improper or inequitable.

DISCUSSION: The applicant was discharged for homosexual acts following an investigation stemming from the Command's receipt of credible information that the applicant was a homosexual. The Command received an anonymous message that the applicant was laying in their rack with another Coast Guard member of the same sex. The Executive Officer counseled the applicant on the Coast Guard's policy on homosexual conduct. The applicant was found to be the victim of a domestic violence incident which was perpetrated by aforementioned individual listed above. During the investigation, the applicant told the Command that the injuries they sustained were the result of a car accident. Following this, the Command learned the attacker had been arrested and an administrative investigation was launched. The applicant later received non-judicial punishment (NJP) for Article 92, 107, and 134 of the UCMJ as a result of the investigation. The applicant was also issued a Military Protection Order (MPO) in response to the domestic violence incident. Following the NJP, the Command interviewed the applicant, and it was determined that the applicant would be discharged due to homosexual conduct. Two days later, the applicant was found to be in violation of the MPO and received NJP for violation of Article 90 of the UCMJ.

The applicant was processed for discharge for homosexual acts in accordance with COMDTINST M1000.6 Article 12.E.6. They were advised of the intent to discharge in a memo. In accordance with COMDTINST M1000.6 Article 12.E.7, a Command inquiry was launched, and it was determined that probable cause existed to warrant separation under COMDTINST M1000.6 Article 12.E.7. The applicant ultimately received an Honorable discharge with a narrative reason of Homosexual Act, an SPD code of HRA, and a reentry code of RE4.

The Board finds the applicant's discharge was the result of DADT, which is no longer consistent with Coast Guard policy. Therefore, the notations on the applicant's current DD214 are inequitable. 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 code, reentry code, 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 the 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 applicant should be issued a new DD214 with the following corrections: the separation authority should be COMDTINST M1000.6 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).

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, reentry code, and narrative reason for separation are no longer appropriate and should be changed. The applicant has substantiated an inequity.

Propriety: Discharge was proper.

Equity: Discharge is no longer equitable based upon policy/legislative change.

Board Conclusion: The Board voted 4-0 for RELIEF

² 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.