

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-044

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

FINAL DECISION

ANDREWS, Deputy Chair:

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The BCMR docketed this case on December 22, 2003, upon receipt of the applicant's completed application.

This final decision, dated April 29, 2004, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a former dental technician (pay grade E-4) in the Coast Guard, asked the Board to correct his military record by upgrading his reenlistment code from RE-4 (ineligible to reenlist) to RE-1 (eligible). He also alleged that the narrative reason for separation on his August 1, 1977, discharge form, DD 214, is erroneous in that he should have been discharged for "hardship" rather than "unsuitability." The applicant is a minister who wishes to become a chaplain for the Navy Reserve.

SUMMARY OF THE MILITARY RECORD

On February 8, 1971, at the age of 17 years, the applicant enlisted in the Air Force. On October 14, 1972, the applicant married. His wife was then 16 years old. On April 1, 1973, their son was born. After advancing to the rate of sergeant, pay grade E-4, the applicant was released from active duty into the Air Force Reserve with an "honorable" character of service on May 31, 1974. His Air Force DD 214 indicates that he had spent more than two years overseas and received various Vietnam campaign medals and a Good Conduct Award. His performance evaluations describe his per-

formance as “commendable,” “highly satisfactory,” and “exceptional.” At the time of his release, he had been recommended for promotion to staff sergeant.

The applicant’s Coast Guard enlistment application indicates that, upon leaving the Air Force, he worked for a municipal fire department from July 1974 to January 1975. He left that job with the intention of going to college, but then worked for a fiber company from September 1975 until he joined the Coast Guard.

On March 1, 1976, at age 22, the applicant enlisted in the Coast Guard in pay grade E-3. Upon completing boot camp, he was enrolled in “A” School to become a dental technician. On November 24, 1976, he graduated from “A” School, ranked third in his class. He was advanced to DT3/pay grade E-4 and transferred to xxxxxxxxxxxx, which was his first assignment preference.

On May 2, 1977, a psychiatrist prepared a report on the applicant. He stated that the applicant had been referred for a psychiatric evaluation by the senior dental officer, Capt. X, “because of a four month history of poor work performance accompanied by preoccupation, social isolation, and apparent depression over family and job issues.” The psychiatrist noted that the applicant had been seen “as a self-referral” on April 18, and 21, 1977. He reported that the applicant had disliked the Air Force, had held only short-term jobs thereafter, and had joined the Coast Guard on an impulse. He stated that the applicant’s work as a DT3 had “slowed to a ‘snail’s pace’” and that “[o]ver the past year, his wife has developed ulcerative colitis and he is quite guilty over how much his own depression and irritability have contributed to her physical worsening.” The psychiatrist reported that the applicant was “an alert, cooperative passive, non-spontaneous young man. His motor behavior is somewhat slowed and he seems generally unanimated. He appears moderately depressed and describes his mood as one of frustration and sadness. There are no delusions or hallucinations. Orientation, memory and general cognitive functioning appear intact.” He diagnosed the applicant with “Adjustment Reaction of adult life in an underlying inadequate personality. (307.3)”¹ The psychiatrist recommended that the applicant be administratively discharged.

¹ “Adjustment Reaction of adult life” (307.3) is an old diagnosis from the second edition of the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (DSM-II), which is no longer used. According to the *Textbook of Military Medicine*, “Adjustment Reaction of adult life” was a diagnosis of a stress reaction and fell under the category of Transient Situational Disturbances. It was “reserved for more or less transient disorders of any severity (including those of psychotic proportions) that occur in individuals without any apparent underlying mental disorders and that represent an acute reaction from overwhelming environmental stress. ... If the patient has good adaptive capacity, his symptoms usually recede as the stress diminishes.” Zajtcuk, Russ, series ed., *TEXTBOOK OF MILITARY MEDICINE*, Jones, Franklin D., et al., eds., *War Psychiatry*, Jones, Franklin D., “Chronic Post-Traumatic Stress Disorder” (Office of the Surgeon General, United States Army, 1995), pp. 411-13. Under DSM-III, published in 1980, the diagnosis “Adjustment Reaction of adult life” was divided between various adjustment disorders and the more severe post-traumatic stress disorder. *Id.* p. 413. Adjustment disorders are defined as psychological responses to identifiable stressors that result in the development of clinically significant emotional

On June 7, 1977, the psychiatrist wrote an addendum to his report, stating that the applicant had been seen weekly for psychotherapy and that his condition had deteriorated in that he had “continued to withdraw in his work environment “ and his “marital problems have remained essentially unabated.” However, aside from the psychiatrist’s report and addendum, the only medical records in the applicant’s record are for ordinary illnesses, such as a sore throat on January 26, 1977; a finger that was “jammed” while he was playing volleyball on March 1, 1977; and an ear infection on April 14, 1977.

On June 23, 1977, the applicant’s commanding officer (CO) asked the Commandant for authority to discharge the applicant “by reason of unsuitability due to personality disorder.”² The CO stated in his letter that the applicant had been referred by his division officer for a psychiatric evaluation on April 26, 1977, because of “a four month history of poor work performance accompanied by preoccupation, social isolation, and apparent depression.” The CO also stated that the applicant had been notified in writing of the basis for the proposed discharge and had acknowledged receipt of it, but had declined to make a statement in his own behalf. The CO listed the psychiatrist’s report and addendum and the applicant’s acknowledgment of the proposed discharge as attachments to the letter, but the applicant’s acknowledgment is not in the record.

On June 30, 1977, the applicant received marks of 2.4 (out of 4.0) for proficiency and leadership and 4.0 for conduct on a performance evaluation. There are no administrative entries in the applicant’s record that document any performance or conduct problems or any dissatisfaction by his command.

On August 1, 1977, the applicant was honorably discharged. The blocks on his DD 214 where the reason and legal authority for his discharge and his reenlistment code would normally appear have no entries and are struck through. Block 22 indicates

or behavioral symptoms. Adjustment disorders are not personality disorders. American Psychiatric Association, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (2000) (DSM-IV-TR)*, p. 679. The Coast Guard relies on the DSM when diagnosing members with psychological conditions. *See Coast Guard Medical Manual (COMDTINST M6000.1B)*, Chap. 5.B.1.

² A “personality disorder” is “an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual’s culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.” American Psychiatric Association, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (2000) (DSM-IV-TR)*, p. 685. Types of personality disorders include paranoid, schizoid, schizotypal, antisocial, borderline, histrionic, narcissistic, avoidant, dependent, and obsessive-compulsive. *Id.* “The diagnosis of Personality Disorders requires an evaluation of the individual’s long-term patterns of functioning The personality traits that define these disorders must also be distinguished from characteristics that emerge in response to specific situational stressors or more transient mental states The clinician should assess the stability of personality traits over time and across different situations.” *Id.* at 686. The Coast Guard relies on the DSM when diagnosing members with psychological conditions. *See Coast Guard Medical Manual (COMDTINST M6000.1B)*, Chap. 5.B.1.

that he had 19 days of accrued leave at the time of his discharge. On the same day, his CO gave him a letter stating that his narrative reason for separation, authority for separation, and reenlistment code would be provided to him on a separate document upon his request and that if he requested such a document, it would be included in his official military record. There is no indication in the record of whether the applicant requested this document, although he acknowledged receiving the letter from this CO, and there is no such document in his military record. However, a Service Record Card (form CGHQ-3299) in his record shows that he was honorably discharged for unsuitability under Article 12.B.16. of the Personnel Manual with separation code JMB, which denoted an involuntary discharge for unsuitability due to a disorder of character or behavior.

APPLICANT'S ALLEGATIONS

The applicant alleged that after he enlisted in the Coast Guard on March 1, 1976, his wife became very ill, but the medical clinic at the training center was unable to determine what was wrong with her. He alleged that he continued to work hard, successfully completed training as a dental technician, and received excellent performance evaluations. However, his wife's health continued to deteriorate after training, when he received transfer orders to serve at a dental clinic in xxxxxxxxx. Therefore, rather than moving with him, she moved with their two-year-old son to her parents' house in xxxxxxxxx. A few weeks later, he took leave to bring her to xxxxxxx. After her arrival in xxxxxxxxx, she was soon admitted to the critical care unit of a hospital. She stayed in the hospital for three weeks and was diagnosed with ulcerative colitis.³

The applicant stated that while his wife was hospitalized, he had to stay home with his son because they were new to the area and had no friends or family and no child care resources or finances to pay for it. The applicant alleged that after his wife was released from the hospital, his section chief at the clinic was not understanding of his circumstances and refused to allow him sufficient time off to provide the continuing support his wife and son needed, even though he had accumulated annual leave he could have taken. He asked the section chief for a compassionate reassignment to xxxxxxxxxxxxx, where his wife's family could help them, but the chief became angry and said he would never agree to a transfer and that any "paperwork would not go past his

³ Medical records submitted by the applicant confirm this information. Ulcerative colitis is a "chronic, recurrent ulceration in the colon ... of unknown cause; it is manifested clinically by cramping abdominal pain, rectal bleeding, and loose discharges of blood, pus, and mucus with scanty fecal particles. Complications include hemorrhoids, abscesses, fistulas, perforation of the colon, pseudopolyps, and carcinoma." DORLAND'S ILLUSTRATED MEDICAL DICTIONARY, 29TH ED. (2000), p. 376. Like Crohn's disease, ulcerative colitis is a major type of inflammatory bowel disease. Braunwald, E., *et al.*, eds., HARRISON'S PRINCIPLES OF INTERNAL MEDICINE, 15th ed. (McGraw-Hill, 2001), p. 1679. Severe ulcerative colitis is characterized by at least six bowel movements per day, a significant amount of blood in the stool, and spontaneous ulcerations and bleeding of the rectum and colon. Other symptoms include nausea, vomiting, fever, and weight loss. *Id.* at 1682

desk.” The applicant alleged that the section chief gave the same reply when he asked for a hardship discharge. He stated that his section chief threatened him with disciplinary action if he tried to bypass the section chief to get a reassignment or hardship discharge.

The applicant stated that the base medical officer, a captain, tried to intervene with his section chief to no avail. The captain therefore asked a lieutenant commander who was a psychiatrist to help the applicant. The applicant alleged that he met with the psychiatrist only for about 15 minutes on April 18, 1977, and for about 20 minutes on April 21, 1977. The psychiatrist told the applicant that he could write to Coast Guard Headquarters on the applicant’s behalf, but that the applicant should not get his hopes up because it was unlikely that Headquarters would agree to discharge someone with an excellent service record. The applicant stated that he really did not want to be discharged but felt that he had no other choice, so he asked the psychiatrist to write the letter to Headquarters.

The applicant alleged that the report the psychiatrist wrote for him was an “attempt at helping me receive an honorable discharge” and was not based on a proper psychiatric evaluation. He stated that, contrary to what the psychiatrist reported, he had enjoyed his time in the Air Force. He stated that although he held several jobs — most of them part-time—in the two years between his release from the Air Force and his enlistment in the Coast Guard, he was never fired from any of them and had left them because none of them had potential as a career that could support his family. He alleged that he never complained to the psychiatrist about depression or about any marital problems other than his wife’s ulcerative colitis. He alleged that he enjoyed his work as a DT3 and got along well with his colleagues, except for his supervisor, who refused to let him take more leave. He pointed out that his work might have seemed “slow” to his supervisor because he was a brand new DT3 and had missed a lot of time at work while his wife was hospitalized and so had not yet thoroughly learned the job. He also stated that he had never felt guilty about his wife’s ulcerative colitis, as the psychiatrist suggested. He alleged that the only emotion he expressed to the psychiatrist was frustration at not being able to take care of his wife and son. The applicant also alleged that the psychiatrist’s statement in the addendum that he had been attending counseling sessions weekly is false, as he only saw the psychiatrist on April 18 and 21, and he pointed out that there are no records of the alleged weekly counseling sessions in his medical records. He also alleged that no one in his command had ever approached him about the quality or pace of his work.

The applicant stated that a few weeks later, he received discharge orders with a letter stating that he was being discharged for unsuitability due to a personality disorder. He had thought that the psychiatrist was arranging a hardship discharge for him and was shocked by the orders. However, he did not object to the orders because he

felt that his situation was desperate, and he did not understand the full implications of the discharge.

After he left the Coast Guard, the applicant alleged, they moved to xxxxxxxxxx and his wife's illness eventually stabilized. They have remained married and raised two sons. Since leaving the Coast Guard, he has earned his Associate's, Bachelor's, and Master's degrees in education and is presently working on a Master's of Divinity Degree with a concentration in counseling at xxxxxxxxxxxxxxxxxxxxxxxx Seminary. He worked as an athletics instructor and basketball coach for four years after earning his Bachelor's degree in 1983; as a trainer and production supervisor at a mill from 1987 to 1990; as a park program manager and athletic coach from 1990 until 1997; and then as a recreation services manager for the Air Force for four years, before he resigned in 2001 to pursue the ministry.

The applicant alleged that he never had a personality disorder. He pointed out that no psychiatric problems were noted on the reports of his physical examinations for enlistment in and separation from the Air Force and enlistment in the Coast Guard and that he had served very successfully in the Air Force for three years and performed well in the Coast Guard. He also pointed out that the psychiatrist's is the only documentation of any performance problem in his record.

Regarding the untimeliness of his application, the applicant stated that although he has known of the errors in his record since 1977, he "was unaware that there was any process for appeal or correction to military records and that there were time limitations to said process."

SUMMARY OF APPLICANT'S SUBMISSIONS

In support of his allegations, the applicant submitted copies of his Air Force records, his wife's medical records, his school transcripts, and numerous letters of recommendation and appreciation from past jobs and volunteer affiliations, which noted his professionalism, dependability, diligence, and ability to work well with all age groups. A copy of his final performance evaluation as a recreation services manager in the Air Force, dated May 25, 2000, shows that he was rated as "far above fully successful" for most of the performance criteria and that he received the highest possible mark of "outstanding" for his "working relationships." Copies of documents from a Navy recruiting office indicate that his recruiter rated him as an exceptional candidate for a Navy chaplaincy. The applicant also submitted a letter dated June 20, 2003, from a counselor with a Master's of Social Work (MSW) employed by the xxxxxxxxxxxxxxxxxxxx. She stated that a "clinical evaluation of [the applicant showed] him to be without any personality disorder and to be well suited for military service."

Statement and Health Records of Applicant's Wife

The applicant's wife signed a statement, saying that the applicant had joined the Coast Guard because they had missed the military "way of life" and hoped that the applicant could make a career in the service. However, soon after he began training, she became sick with nausea, vomiting, and diarrhea that did not stop and gradually worsened to the point where leaving the house was very difficult. She lost a lot of weight, had chills and fever, and had no energy. After she moved to xxxxxxxxxx, her condition worsened to the point where she was spending all of her time in the bathroom. She finally was admitted to the hospital and received the diagnosis of ulcerative colitis.

The applicant's wife submitted hospital test results and a report prepared by her doctor after her discharge from the hospital in 1977. The report indicates that she had been hospitalized from January 10 to February 1, 1977, because of increasing nausea, vomiting, and bloody diarrhea and a loss of more than 20 pounds (from 115 to 93) in six months. The doctor noted that she complained of having bloody diarrhea between three and eight times every day. He diagnosed her with ulcerative colitis and noted that she needed to return for follow-up visits.

The applicant's wife stated that, because they had no friends or family in the area, and no money for child care, her husband had to stay at home with their son and "was being threatened at work." She stated that even after she was discharged a few weeks later, she was expected to attend outpatient visits, and there were days that she could not function. However, she alleged, the applicant was not permitted to take time off to help her. Every time he asked for time off, there was a "confrontation" with his supervisor, and the stress this caused them would cause a setback in her condition. She

stated that she and the applicant "spent days talking about what options [they] had" and "tried every avenue available to [them] for support." She stated that the applicant loved the camaraderie of the service and did not want to be discharged.

The applicant's wife stated that she has been told that her "condition is terminal but controlled" by daily medication. Her condition has stabilized and is not debilitating. She stated that she has been "functioning within normal limits for the past 18 years." She concluded by stating that it was her illness that caused the applicant's discharge, and not any "unsuitability."

VIEWS OF THE COAST GUARD

On April 8, 2004, the Judge Advocate General (TJAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant partial relief by upgrading his reenlistment code to RE-3G, which means that a veteran would be eligible for reenlistment except for a condition that is not a physical disability but that interfered with his performance of duty. A veteran with an RE-3 code must receive a waiver before he can be reenlisted.

TJAG relied on a memorandum from the Coast Guard Personnel Command (CGPC) concerning the applicant's request. CGPC stated that although the application was untimely, the Board should consider his request because the applicant has submitted "voluminous documentation with his application that he has led a very productive life since and possibly overcome the underlying conditions that led to his separation in 1977." CGPC alleged that there is no evidence that the applicant's "discharge for unsuitability due to personality disorder was in error or unjust." CGPC also alleged that the applicant never requested a hardship discharge. CGPC pointed out that he was afforded the opportunity to make a statement in his own behalf but never did so.

CGPC stated that the Separation Designator Code (SPD) Handbook permits the assignment of either an RE-4 or an RE-3G reenlistment code for members discharged because of a personality disorder. CGPC stated, based upon the information in the record, that the RE-4 reenlistment code should be upgraded "in that it prevents him from even being considered for service as a military chaplain." Therefore, CGPC recommended that it be upgraded to RE-3G.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 8, 2004, the Chair faxed the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. On April 21, 2004, the applicant's response was received. He stated that he is "very appreciative of the Coast Guard's recommendation as it at least opens the door to allow [him] to pursue God's calling on [his] life to ministry as a Navy chaplain." He argued, however, that the Coast Guard, in

maintaining that he has a personality disorder, is ignoring the preponderance of the evidence in the record. He asked the Board to upgrade his reenlistment code to an RE-1, rather than an RE-3G.

In further support of his allegation that he does not have a personality disorder, the applicant submitted two signed statements. Dr. P, a psychologist, wrote that the diagnosis of "Adjustment Reaction of Adult Life" meant only that the applicant "was not able to handle the challenges he faced" when his wife became critically ill just as he was trying to launch a new career in the Coast Guard. He stated that the applicant's successful history of employment and personal relationships—both before and after his enlistment in the Coast Guard—contradicts the diagnosis of a personality disorder. Dr. P stated that true personality disorders are permanent and do not come and go. Dr. P stated that his examination of the applicant indicates that he has no mental illness or significant psychosocial problem and that he is "in excellent mental health."

A doctor of clinical psychology and Associate Professor of Pastoral Care and Counseling at the applicant's seminary stated that the applicant has been his student for almost three years. He stated that the diagnosis of "inadequate personality disorder" was dropped from the DSM in 1980 because it was "found to be unreliable." He also stated that his observations of the applicant "provide absolutely no evidence for any type of personality disorder. In fact, to the contrary, he is well-adjusted and capable. I have seen no evidence for any type of mental disorder."

APPLICABLE LAW

Article 12.B.16. of the Coast Guard Personnel Manual in effect in 1977 (CG-207) authorized the Commandant to discharge members for unsuitability if they had, "[a]s determined by medical authority, personality behavior disorders and disorders of intelligence listed in Chapter 5, CG Medical Manual (CG-294)." Article 12.B.16.(d) required that any member considered for such a discharge be informed in writing of the reason for the proposed discharge and be afforded an opportunity to make a statement in his own behalf. A member who declined to make a statement in his own behalf was required to sign a statement to this effect.

Article 5.C.1.(b)(2) of the Medical Manual (CG-294) stated that members diagnosed with personality disorders, various sexual preferences, addictions, and "Transient situational disturbances: Adjustment reaction of: adolescence[,] late life[,] Adult situation reaction[,] Gross stress reaction" "should be considered for 'Administrative Discharges' (Refer to Article 12-B-10 and 12-B-12, CG Personnel Manual, CG-207)."

Article 12.B.10. of the Personnel Manual dealt with discharges for unsuitability, but it was removed from the manual and replaced by Article 12.B.16. on April 8, 1977, pursuant to Amendment 62. Article 12.B.12. of the Personnel Manual dealt with dis-

charges for the “convenience of the Government.” Article 12.B.12.(e) stated that “[i]n cases where the commanding officer feels that separation should not be for the convenience of the Government, but for unsuitability, misconduct, or for any other reason, suitable recommendation will be forwarded to Commandant (G-PE) for consideration. Cases in this category would be those where the record of the member concerned show commission of serious military offenses, a generally unsatisfactory military record, or other good and sufficient cause in the opinion of the commanding officer.”

Article 12.B.13. of the Personnel Manual authorized the Commandant to discharge a member for hardship or dependency and required that members who requested such a discharge be informed of the proper procedures to follow. Under Article 12.B.13.(c)(3)(b), the Commandant could authorize a hardship discharge when it was determined that the “member’s family is undergoing hardship more severe than the normal hardships encountered by dependents or families of members of the Coast Guard; that this hardship is not of a temporary nature and the release of the member will result in the elimination of, or will materially alleviate, the condition, and that there are no means of alleviation readily available other than be release from active duty. Pregnancy of an enlisted man’s wife is not in itself a circumstance for which release from active duty will be authorized.” Article 12.B.13.(d) provided that, after the policies were explained to a member, he would “be permitted to submit a written application for discharge or release from active duty for dependency or hardship to the Commandant (G-PE), via the commanding officer. Sympathetic consideration will be given in the preparation of this request.”

Article 12.B.16.b. of the current Personnel Manual authorizes unsuitability discharges for members diagnosed with one of the “personality behavior disorders ... listed in Chapter 5, CG Medical Manual” Chapter 5.B.2 of the Medical Manual (COMDTINST M6000.1B) lists the personality disorders that qualify a member for administrative discharge pursuant to Article 12 of the Personnel Manual. Adjustment disorders are not included among the personality disorders listed. Adjustment disorders are, however, listed in Chapter 5.B.3 of the Medical Manual, which states that they “are generally treatable and not usually grounds for separation. However, when these conditions persist or treatment is likely to be prolonged or non-curative (e.g. inability to adjust to military life ...) process in accordance with [Article 12 of the Personnel Manual] as necessary.”

Commandant Instruction 1900.4A, issued on May 14, 1975, provided instructions for the preparation of the discharge form DD 214.⁴ Enclosure (2) of the instruction per-

⁴ Because COMDTINST 1900.4A was issued before Amendment 62, which reorganized Article 12 of the Personnel Manual, the COMDTINST refers to erroneous articles of the Personnel Manual as the Separation Authorities for each SPD code. In 1975, when the COMDTINST was issued, Article 12.B.6. governed discharges for the convenience of the Government; Article 12.B.7. governed hardship discharges; and Article 12.B.10. governed unsuitability discharges.

mitted the following combinations of codes and narrative reasons for separation that might apply to the applicant's case:

SPD Code	Narrative Reason for Separation	RE Code	Separation Authority	Remarks
JMB	Unsuitability—Character and Behavior Disorders	RE-4	12.B.10.	Enclosure (2) qualifies this code with the remark that "Member must not object."
JFV	Condition, Not a Disability	RE-4, RE-3G, or RE-3X	12.B.6.	JFV denoted an involuntarily discharge when the member had a condition that was not a physical disability but that interfered with the performance of duty (enuresis, motion sickness, allergy, fear of flying, etc.).
JFF	Separation for Good and Sufficient Reasons when Determined by the Secretary of Transportation	RE-1 or RE-4	12.B.6.	
KDB	Hardship	RE-3H or RE-4	12.B.7.	KDB denotes a voluntary discharge by direction of competent authority.

The JMB SPD code is no longer used today. Instead, Article 12.B.16. of the Personnel Manual (COMDTINST M1000.6A) and the SPD Handbook provide that members discharged because of a personality disorder receive the SPD code JFX, an RE-4 or RE-3G reenlistment code, and "Personality Disorder" as the narrative reason for separation shown on their DD 214s, instead of "Unsuitability."

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. An application to the Board must be filed within three years of the day the applicant discovers the alleged error in his record. 10 U.S.C. § 1552(b). The applicant received his discharge form DD 214 in 1977 and knew or should have known of his reenlistment code and narrative reason for separation at that time. Therefore, his request is untimely.
3. The Board may waive the three-year statute of limitations if it is in the interest of justice to do so. 10 U.S.C. § 1552(b). Factors for the Board to consider in determining whether it is in the interest of justice to waive the statute of limitations include any stated reasons for the delay and whether a cursory review of the record indicates that there is some merit in the case. *See Dickson v. Secretary of Defense*, 68 F.3d 1396, 1405 (D.C. Cir. 1995); *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992). The appli-

cant stated that he was unaware of the BCMR process until recently. Moreover, the Board's review of the record indicates that the Judge Advocate General has recommended granting certain relief and that there is some merit in the case. Therefore, the Board will waive the statute of limitations and consider the application on the merits.

4. In 1977, the applicant was diagnosed with "Adjustment Reaction of Adult Life," diagnostic code 307.3 in DSM-II. This diagnosis was abandoned in 1980 and is no longer in use by the American Psychiatric Association or the Coast Guard. According to the *Textbook of Military Medicine* published by the Office of the Surgeon General of the United States Army, the diagnosis was "reserved for more or less transient disorders of any severity ... that occur in individuals without any apparent underlying mental disorder and that represent an acute reaction from overwhelming environmental stress. ... If the patient has good adaptive capacity, his symptoms usually recede as the stress diminishes."⁵ Furthermore, someone who was diagnosed with "Adjustment Reaction of Adult Life" in 1977 would today receive a diagnosis of either an adjustment disorder or post-traumatic stress disorder, not a diagnosis of a (permanent) personality disorder.⁶

5. The applicant has submitted reports from a licensed social worker; Dr. P, a practicing psychologist; and a clinical psychologist who, as an Associate Professor of Pastoral Care and Counseling, has known the applicant for three years. All three have stated that the applicant has no personality disorder and no mental illness. Given these professional assessments; the applicant's success in the Air Force and civilian life; and the fact that his condition in 1977 would today be diagnosed as an adjustment disorder, which is a temporary condition and not an indication of any underlying mental illness, the Board finds that the applicant has proved by a preponderance of the evidence that he has never had a personality disorder and has never been diagnosed with a personality disorder, as defined by the American Psychiatric Association, whose terms and definitions are used by the Coast Guard.

6. The preponderance of the evidence in the record indicates that as the applicant, at age 22, was attempting to launch a career in the Coast Guard as a dental technician, his wife became critically ill and unable to care for their three-year-old son. The Board notes that the psychiatrist who diagnosed the applicant with "Adjustment Reaction of Adult Life" on May 2, 1977, indicated that the applicant's symptoms had begun four months before, in early January 1977, which is when his wife was first hospitalized and diagnosed with chronic ulcerative colitis. The applicant alleged that the psychiatrist's report was a trumped-up document concocted to ensure his discharge after his supervisor refused to forward any request for a compassionate transfer or a

⁵ Zajtchuk, Russ, series ed., *TEXTBOOK OF MILITARY MEDICINE*, Jones, Franklin D., et al., eds., *War Psychiatry*, Jones, Franklin D., "Chronic Post-Traumatic Stress Disorder" (Office of the Surgeon General, United States Army, 1995), pp. 411-13.

⁶ *Id.* at 413.

hardship discharge up the chain of command. However, there is no evidence in the military record to confirm his allegations about his supervisor's and psychiatrist's attitudes and actions, and absent evidence to the contrary, the Board must conclude that they acted "correctly, lawfully, and in good faith." 33 C.F.R. § 52.24(b); *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992), and *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979). The Board finds that the preponderance of the evidence in the record indicates that in the spring of 1977, the applicant was suffering from what would today be diagnosed as an adjustment reaction to the stress of trying to cope with the demands of his new job, his ill wife, and his young son. The preponderance of the record also indicates that after his wife's illness stabilized, he was able to attend school, earn several degrees, and have a career as an athletic coach and trainer and recreation services manager, which indicates that the adjustment reaction was temporary.

7. In 1977, the Coast Guard Medical Manual grouped the diagnosis of a (usually temporary) "Adjustment Reaction of Adult Life" (307.3) with various permanent personality disorders and permitted members with such diagnoses to be discharged for unsuitability with the same SPD code, JMB. As indicated by the Judge Advocate General's advisory opinion, the JMB SPD code that the applicant received is today interpreted as denoting a discharge because of a diagnosed permanent personality disorder. More recently, although Chapter 5 of the Medical Manual now distinguishes between personality disorders and adjustment disorders, members still sometimes receive personality disorder discharges even though they have been diagnosed with adjustment disorders.⁷

8. There has never been an SPD code specifically for people diagnosed with adjustment disorders. There are a limited number of separation codes available to the Coast Guard; they cannot be tailor-made to reflect exactly the circumstances of each member's discharge. Therefore, members sometimes receive SPD codes and narrative reasons for separation that do not perfectly reflect the causes of their discharge. However, because SPD codes and narrative reasons for separation are reviewed by military and some civilian employers in recruiting employees, it is extremely important that they be fair and not unduly prejudicial to the veteran.

9. The Board has previously upheld personality disorder discharges for members who have actually been diagnosed with a personality disorder or a chronic adjustment disorder that has led to inappropriate behavior or misconduct which fully supports their diagnoses.⁸ The Board has previously corrected such discharges when

⁷ See, e.g., BCMR Docket Nos. 2003-015, 1999-037, and 1999-050, in which members were processed for personality disorder discharges based on a diagnosed adjustment disorder.

⁸ See, e.g., BCMR Docket Nos. 2001-020, 2000-142, 1999-185, 1999-037, and 1998-099 in which the Board upheld the unsuitability and personality disorder discharges of, respectively, a veteran who was diagnosed with a dependent personality disorder after going AWOL and committing various other disciplinary infractions; a veteran who was diagnosed with a borderline personality disorder and went to

members have not been diagnosed with a personality disorder and/or when there has been insufficient evidence of behavioral problems to support the diagnosis.⁹ In this case, the psychiatrist's second-hand mention of the slow speed of the applicant's work is the only evidence of any performance problem in the record. Moreover, the record indicates that he completed a very successful enlistment in the Air Force; he finished third in his class to become a dental technician; he received a reasonably satisfactory performance evaluation in June 1977; and there is no documentation of any disciplinary infractions.

10. In light of the above findings, the Board finds that the applicant's SPD code, narrative reason for separation, and reenlistment code constitute errors in his record that should be corrected by the Board. The Judge Advocate General recommended that the Board only correct the applicant's reenlistment code. However, given the quality of the applicant's record and the fact that he was diagnosed with what today would be called an adjustment disorder under clearly stressful conditions, the Board finds that more relief should be granted. Moreover, the Board notes that, with the RE-3G code that the Judge Advocate General recommended, the applicant would in theory only have to prove that he no longer has an adjustment disorder to join the military, while his wife's continuing illness—the primary underlying cause of his 1977 adjustment disorder—would not necessarily be considered.

11. The applicant asked the Board to correct his record to provide him with a hardship discharge and an RE-1 reenlistment code. The applicant has proved by a preponderance of the evidence that his adjustment reaction/disorder was caused primarily by the hardship of trying to care for his ill wife and young son while fulfilling his commitment to the Coast Guard. Whether the stressful circumstances of his case actually warranted a hardship discharge at the time is not clear to the Board. However, the types of discharges provided under Commandant Instruction 1900.4A and the Personnel Manual were limited, and a hardship discharge would be a fair and reasonably

an historic tower, told a guard at the bottom that he was going to hang himself off the top with a dog collar and leash, and waited at the top until the police arrived; a veteran with numerous disciplinary infractions and performance problems in his record who was diagnosed by two psychiatrists with a borderline personality disorder; a veteran who frequently exhibited inappropriate sexual behavior over a two-year period and was twice diagnosed with "adjustment disorder with disturbance of conduct"; and a veteran who was twice arrested for indecent exposure and diagnosed with narcissistic personality disorder.

⁹ See, e.g., BCMR Docket Nos. 2003-015, 2001-104, 2001-072, and 1999-050, in which the Board corrected the personality discharges of, respectively, a veteran whose diagnosed adjustment disorder with schizoid and schizotypal traits was determined after his discharge to have been an early stage of his psychosis; a veteran who was diagnosed with post-traumatic stress disorder after she was attacked by a fellow servicemember; a veteran who had no disciplinary problems but who was unable to adjust to shipboard life and diagnosed with an adjustment disorder by two psychologists and a personality disorder by one psychiatrist; and a newly married veteran who was diagnosed with an adjustment disorder after being told that accepting transfer orders to be stationed near her husband would require that she remain in the Service for an additional two years.

accurate correction of his DD 214. The Board notes that, while the applicant's adjustment disorder has clearly dissipated over the past 25 years, his wife is still ill, though apparently no longer as symptomatic as she was in 1977. Moreover, whether the applicant's stressful circumstances in 1977 actually warranted a hardship discharge is a judgment call, and there is no evidence that any authority deliberated the question in 1977. Absent a more accurate discharge under Commandant Instruction 1900.4A and Personnel Manual, the Board finds that the applicant's request for a hardship discharge should be granted. The Board notes that the Coast Guard has in the past recommended that the Board correct a veteran's personality disorder discharge to a hardship discharge when the veteran was diagnosed with both an adjustment disorder and an obsessive-compulsive personality disorder after he asked to be discharged merely because of homesickness.¹⁰

12. Although the applicant asked the Board to upgrade his reenlistment code to RE-1, under Commandant Instruction 1900.4A and the current SPD Handbook, members discharged because of hardship could be assigned only an RE-4 or RE-3H reenlistment code. The applicant presented some evidence to show that his wife's illness has stabilized since 1977. However, the Board is not in a position to judge whether the applicant's wife's medical condition should no longer be a potential deterrent to his military service. Therefore, the Board finds that his reenlistment code should be upgraded to RE-3H.

13. Accordingly, the Board finds that it is in the interest of justice to correct the applicant's SPD code to KDB; the narrative reason for separation shown on his DD 214 to "Hardship"; the separation authority to Article 12.B.7. of the Personnel Manual (CG-207); and the reenlistment code to RE-3H.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

¹⁰ See BCMR Docket No. 2001-032.

ORDER

The application record of former DT3 xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military is granted in part as follows:

The Coast Guard shall correct his DD 214 and other Coast Guard records, including the form CGHQ-3299 in his record, to show that the separation authority is Article 12.B.7. of the Personnel Manual (CG-207); his separation code is KDB; the narrative reason for separation is "Hardship"; and his reenlistment code is RE-3H.

Jordan S. Fried

J. Carter Robertson

Kathryn Sinniger