

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2005-134

XXXXXXXXXXXX
Xxx xx xxxx, SNOS (former)

FINAL DECISION

AUTHOR: Hale, D.

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 Chair docketed the case on July 5, 2005, upon receipt of the applicant's completed application and military records.

This final decision, dated April 26, 2006, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant, a former seaman operations specialist (SNOS) in the Coast Guard, asked the Board to correct his military record by upgrading the reenlistment code on his discharge form (DD 214) so that he would be eligible to reenlist. He was discharged on December 17, 2003, with an RE-4 reenlistment code (ineligible for reenlistment), a JFX separation code (unsuitable for service due to a personality disorder), and "Personality Disorder" as the narrative reason for separation shown on his DD 214.

The applicant stated that he was improperly discharged for a personality disorder because he was, in fact, diagnosed with an anxiety and adjustment disorder. He alleged that he no longer suffers from any anxiety or adjustment disorder and would like to reenlist in the Coast Guard.

SUMMARY OF THE RECORD

On June 18, 2002, the applicant enlisted in the Coast Guard for a term of four years. After completing recruit training he was assigned to a Coast Guard icebreaker. Between November 2002 and January 2003, the applicant was evaluated numerous times by medical personnel aboard the cutter for complaints of panic attacks, anxiety, depression, and a general difficulty adjusting to life in the Coast Guard. On September 16, 2003, the applicant was seen by a psychologist at the Madigan Army Medical Center (MAMC) who conducted a mental examination, the findings of which were noted in a Report of Mental Status Evaluation. The examination was requested by the applicant's command because he was being considered for discharge after exhibiting a variety of depressive and anxiety symptoms. Following his examination of the applicant, the psychologist reported that the applicant should be discharged from the service because

[The applicant] has a variety of depressive and anxiety symptoms, as well as known history of phobias and anxieties. These all pre-existed his enlistment, have been the focus of his trips to medical clinics for this entire past year and are not responding so far to supportive medical interventions. While he does manifest some thoughts of self-harm, he is not acutely homicidal/suicidal in a way that meets the criteria for referral admission to the inpatient psychiatry ward. ...

On October 7, 2003, the applicant's commanding officer (CO) formally notified him that he was initiating his discharge under Article 12.B.16.b.2. of the Coast Guard Personnel Manual because he had been diagnosed as having a behavior disorder and an anxiety disorder. The CO also notified him that he was entitled to submit a statement on his own behalf. The record also contains an unsigned endorsement dated October 7, 2003, on which the applicant apparently acknowledged the CO's notification of proposed discharge, waived his right to submit a statement, and waived his right to consult with an attorney. The CO also noted that the applicant chose not to submit a statement in his own behalf.

Also on October 7, 2003, the CO recommended to the Coast Guard Personnel Command (CGPC) that the applicant be honorably discharged for unsuitability, based on his diagnosed anxiety disorder. The CO wrote that a psychologist had recommended the applicant for discharge and that this recommendation was approved by a psychiatrist.

In November 2003, CGPC authorized the CO to discharge the applicant, in accordance with Article 12.B.16., no later than December 17, 2003, with an honorable discharge by reason of unsuitability, and with the "appropriate narrative reason for discharge found in the separation program designator [SPD] handbook." The applicant was discharged on December 17, 2003, with the JFX separation code, an RE-4 reenlistment code, and "Personality Disorder" as the narrative reason for separation.

Prior to filing his application with the Board, the applicant submitted a request to the Coast Guard's Discharge Review Board (DRB) for the same relief requested from the BCMR. On July 26, 2004, the DRB denied the applicant's request, stating that his discharge had been carried out in accordance with Coast Guard policy. Specifically, the DRB noted that the applicant had been diagnosed with "a personality disorder by competent medical authority based upon a 12-month observation period. The applicant provides no documentation indicating a condition no longer exists." On September 13, 2004, the Commandant reviewed the DRB's decision and approved its finding that the applicant's discharge was proper.

VIEWS OF THE COAST GUARD

On November 15, 2005, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant partial relief by correcting the applicant's DD 214 to show a different separation authority, separation code, reentry code, and narrative reason for separation.

The JAG relied on a memorandum from CGPC concerning the applicant's request. CGPC recommended that partial relief be granted, and stated that the applicant's discharge did not conform to the diagnosis provided by the psychologist and psychiatrist who evaluated him and recommended his discharge. CGPC noted that the applicant was diagnosed with an anxiety and adjustment disorder, but his DD 214 states that the reason for separation was a personality disorder. CGPC further stated, "absent any record of any psychological diagnosis stating such, I must assume that the decision to discharge the applicant due to personality disorder was in error." CGPC alleged that the applicant is harmed by the continued assignment of the JFX separation code and the RE-4 reenlistment code because they prevent the applicant from being considered for service in any branch of the U.S. military.

CGPC recommended that four changes be made to the applicant's DD 214. It recommended that the separation authority be changed from Article 12.B.16 of the Personnel Manual, to Article 12.B.12., that the separation code be changed to JFV,¹ that the reenlistment code be changed to RE-3G,² and that the narrative reason for separation be changed to "Condition, Not a Disability."

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 17, 2005, the BCMR sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. He responded on November 22, 2005, stating that he did not object to the Coast Guard's recommendation.

APPLICABLE LAW

Article 12.B.12.a. of the Coast Guard Personnel Manual provides that the Commander may authorize or direct the separation of enlisted members for a number of reasons, including a condition, not a physical disability, that interferes with the performance of duty.

¹ JFV is used to denote an involuntary separation when a condition, not a physical disability, interferes with the performance of duty. SPD Code Handbook, page 2-5.

² An RE-3G means that a veteran is eligible for reenlistment if he can satisfy military recruiters that he no longer has the condition for which he was originally discharged.

Chapter 5.B.2. of the Coast Guard Medical Manual lists the personality disorders for which a member may be separated. Adjustment disorders are not included and are addressed in Chapter 5.B.3 of the Manual, which states that adjustment disorders “are generally treatable and not usually grounds for separation,” but that members with adjustment disorders may be administratively discharged “when these conditions persist or treatment is likely to be prolonged or non-curative (e.g. inability to adjust to military life ...).”

Chapter 3.F.16.d. of the Medical Manual states that adjustment disorders “do not render an individual unfit because of physical impairment. However, if these conditions are recurrent and interfere with military duty, are not amenable to treatment, or require prolonged treatment, administrative separation should be recommended (see Section 5-B).”

Article 1.E. of the Coast Guard Instruction for completing discharge forms states that a member’s DD 214 should show a separation code and reenlistment code “as shown in the SPD Handbook or as stated by [CGPC] in the message granting discharge authority.” The narrative reason for separation on the DD 214 must be whatever is specified by CGPC.

The SPD Handbook includes the following combinations of codes and narrative reasons for separation, which might apply to the applicant’s case:

SPD Code	Narrative Reason for Separation	RE Code	Separation Authority	Explanation
JFX	Personality Disorder	RE-4 or RE-3G	12.B.16	Involuntarily discharge [by direction] when a personality disorder exists, not amounting to a disability, which potentially interferes with assignment to or performance of duty.
JFV	Condition, Not a Disability	RE-4 or RE-3G	12.B.12	Involuntarily discharge [by direction] when a condition, not a physical disability, interferes with the performance of duty (Enuresis, motion sickness, allergy, obesity, fear of flying, et al.)

Under Article 12.B.4. of the Personnel Manual, a member’s commanding officer has authority to decide which of the permissible RE codes listed in the SPD Handbook is assigned to the member.

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 in this case pursuant to section 1552 of title 10 of the United States Code. The application was timely.

2. The Board notes that the applicant is not contesting his discharge from the Coast Guard; he is only seeking a change in his reenlistment code so he may be allowed to reenlist and he alleged that the narrative reason for his discharge was erroneous. The applicant's DD 214 indicates that he was discharged because of a personality disorder and given an RE-4 reenlistment code. However, the record indicates and the Coast Guard admits that the applicant was never diagnosed with a personality disorder. As the Coast Guard stated, "Condition, Not a Disability" would be more appropriate in this case because the applicant was discharged due to an adjustment disorder, not a personality disorder. The separation code for "Condition, Not a Disability" is JFV, not JFX.

3. The SPD Handbook permits an RE-3G reenlistment code as well as an RE-4 for a discharge resulting from an adjustment disorder characterized as a "Condition, Not a Disability." The RE-4 code is a permanent bar to reenlistment, but an RE-3G would require the applicant to satisfy a recruiting command that he no longer suffers from his adjustment disorder before he would be allowed to reenlist. Adjustment disorders are not permanent according to the Diagnostic and Statistical Manual (DSM), which the Coast Guard relies on. In addition, the DSM indicates that neither anxiety disorders nor adjustment disorders are personality disorders. The applicant alleged that he does not, nor did he ever have, a personality disorder and would like to be given the opportunity to reenlist in the Coast Guard. Therefore, the Board agrees with the Coast Guard that the applicant's RE code should be upgraded to RE-3G.

4. The JAG and CGPC recommended that the applicant's DD 214 be corrected to cure these inaccuracies. The Board agrees. Given the applicant's diagnosed anxiety and adjustment disorder and the provisions of the SPD Handbook, the Coast Guard should have assigned him the JFV separation code for having a condition that precludes military service but does not amount to a physical disability. The applicant was diagnosed with an anxiety and adjustment disorder and his CO recommended his discharge pursuant to Article 12.B.12.a. of the Personnel manual, but his DD 214 indicates that he was discharged because he had a "Personality Disorder." This error, in turn, caused his DD 214 to reflect an incorrect separation authority and narrative reason for separation. The article of the Personnel Manual that authorizes the separation of a member with a condition that is not a disability, is Article 12.B.12, rather than 12.B.16.

5. In light of the applicant's diagnosis and the JAG's recommendation, the Board finds that it would be in the interest of justice to correct the applicant's separation code to JFV, correct his narrative reason for separation to "Condition, Not a Disability," and correct the separation authority shown on his DD 214 to Article 12.B.12. of the Personnel Manual. In addition, his reenlistment code should be corrected to RE-3G.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of former SNOS XXXXXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is granted as follows:

Block 25 shall be corrected to show Article 12.B.12. of the Personnel Manual as the separation authority.

Block 26 shall be corrected to show JFV as the separation code.

Block 27 shall be corrected to show RE-3G as the reenlistment code.

Block 28 shall be corrected to show "Condition, Not a Disability" as the narrative reason for separation.

The Coast Guard shall issue the applicant a new DD 214 reflecting these corrected entries. The following notation may be made in Block 18 of the DD 214: "Action taken pursuant to order of BCMR."

Bruce D. Burkley

J. Carter Robertson

George A. Weller