

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2011-075

**XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX**

FINAL DECISION

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 application upon receipt of the applicant's completed application on January 19, 2011, and subsequently prepared the final decision as required by 33 CFR § 52.61(c).

This final decision, dated September 8, 2011, is approved and 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 asked the Board to correct his DD 214 (Discharge or Release from Active Duty document) to show that he was discharged because of a "condition, not a disability" that interfered with the performance of duty. In this regard, he is asking that his DD 214 show Article 12.B.12. (convenience of the government) as the separation authority, JFV ("condition, not a disability") as the separation code, RE-3G (eligible to reenlist, except for disqualifying factor (adjustment disorder)) as the reenlistment code, and "condition, not a disability" as the narrative reason for separation.

In 2007, the applicant was honorably discharged from the Coast Guard because of an adjustment disorder under Article 12.B.16. of the Personnel Manual. At the time of discharge, his DD 214 listed Article 12.B.16. (unsuitability) of the Personnel Manual as the separation authority, JNC ("unacceptable conduct") as the separation code, RE-4 (not eligible to reenlist) as the reenlistment code, and "unacceptable conduct" as the narrative reason for his separation. On September 25, 2009, the Discharge Review Board (DRB) changed the applicant's separation code from JNC to JFY (involuntary discharge due to adjustment disorder) and the narrative reason for his separation from "unacceptable conduct" to "adjustment disorder."

The applicant was diagnosed with an adjustment disorder while in the Coast Guard. He stated after a referral for psychological counseling following a domestic violence incident in which his mother was stabbed four times, he was diagnosed with an adjustment disorder with

anxiety. He stated that the evaluating psychologist commented that the domestic violence incident was the cause of his disorder. He stated that since that time he has had no anxiety, fear, or difficulty adjusting or adapting.

The applicant contended that a member, like himself, may be separated from the Coast Guard under Article 12.B.12 of the Personnel Manual for convenience of the government if that member has a “condition, not a disability” that interferes with performance of duty. He argued that Article 3.F.16.e. of the Medical Manual, classifies adjustment disorder as such a condition. In addition, the applicant argued that the Separation Program Designator (SPD) Handbook authorizes JFV as the separation code for discharge because of a “condition, not a disability” and either an RE-3G or an RE-4 reenlistment code. The applicant asserted that he was unjustly discharged with an erroneous separation code and an unforgiving reenlistment code.

The applicant stated that he is seeking a correction to his record so that he can reenlist. In support of his application, the applicant submitted the following:

1. The applicant submitted the final decision in Docket No. 2008-127, which was issued by the Board on November 25, 2008. In that case the applicant was diagnosed with an adjustment disorder but discharged under Article 12.B.16. (unsuitability). The Board corrected that applicant’s record to show Article 12.B.12.a.12 of the Personnel Manual as the separation authority, JFV as his separation code, and RE-3G as his reenlistment code. The applicant suggested that he is entitled to relief similar to that granted to the applicant in BCMR No. 2008-127. The Board made the following findings, in pertinent part, in Docket No. 2008-127:

4. The applicant’s DD 214 indicates that he was diagnosed with and discharged because of a personality disorder even though the applicant was never diagnosed with a personality disorder during his four months in the Coast Guard. Instead, he was diagnosed with panic attacks and an adjustment disorder, and the record indicates that he was discharged because of the adjustment disorder. As stated in Chapter 5.B. of the Coast Guard Medical Manual and the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders*, which the Coast Guard uses, adjustment disorders are not personality disorders. CGPC admitted this fact in the advisory opinion. Therefore, the Board finds that the Coast Guard erred in assigning the applicant the JFX separation code, which denotes a diagnosed personality disorder, and “personality disorder” as his narrative reason for separation.

5. . . . In this case, CGPC recommended that the Board correct the applicant’s DD 214 to show separation code JFV and Article 12.B.12. but “convenience of the government,” which is the title of Article 12.B.12., as the narrative reason for separation Therefore, the Board finds that, as in many past BCMR cases, the applicant’s DD 214 should be corrected to show Article 12.B.12. as the separation authority in block 25; JFV as the separation code . . .

2. The applicant submitted a copy of his July 24, 2007 Department of Veterans Affairs (DVA) compensation and pension medical examination. The medical report noted that the

applicant demonstrated some attributes of bipolar disorder, but he did not appear to ever experience a full manic episode or major depression. The DVA did not diagnose the applicant with any psychiatric illnesses.

BACKGROUND

The applicant enlisted in the Coast Guard on June 7, 2005 and was discharged on May 3, 2007.

Prior to his discharge, on February 8-9, 2007, the applicant underwent a command directed mental health evaluation. The psychiatrist found that the applicant could not adjust to military life and that his difficulty adjusting, coupled with immaturity and past life experiences, had caused significant anxiety and rendered the applicant unable to function in a military environment. The psychiatrist further stated that “[d]ocumentation provided by the command of repeated episodes of poor judgment and inability to perform the duties required of him, confirm a diagnosis of adjustment disorder with anxiety and work inhibition, chronic.” The psychiatrist recommended administrative separation.

On March 5, 2007, the applicant’s commanding officer (CO) advised the applicant that the CO had initiated action to discharge the applicant from the Coast Guard under Article 12.B.16. of the Personnel Manual. The CO stated that he was acting in accordance with the command-directed mental health evaluation that found that the applicant was unable to adapt to military life and would be unable to perform his duties in the foreseeable future. The CO stated that the Commander, Coast Guard Personnel Command (CGPC) would decide whether the applicant should be discharged and if so, the type of discharge he would receive.

On March 6, 2007, the applicant acknowledged the proposed discharge, waived his right to submit a statement, and did not object to the discharge.

On March 12, 2007, the CO asked CGPC to discharge the applicant from the Coast Guard under Article 12.B.16. of the Personnel Manual. The CO justified his request as follows:

Since enlisting in the Coast Guard in June 2005, member has had difficulty adjusting to the rules and regulations which govern the United States Coast Guard. Member has been awarded non-judicial punishment twice in the last 5 months for several infractions of Article 92 UCMJ, failure to obey lawful order or regulation.^[1] ^[2] Taking into consideration the member’s past performance and

¹ The CO included documentation stating that the applicant had been punished at captain’s mast for failing to report to Training Center Petaluma until after the expiration of liberty and for being one hour late in relieving the watch on 23 August 2006. The CO also stated that the applicant was punished at a captain’s mast on December 20, 2006 for separate violations of failing to obey a lawful general order or regulation. In this regard, the CO stated that the applicant failed to provide a written statement to his supervisor regarding his involvement in a vehicle accident after being ordered to do so and he failed to maintain insurance coverage on his privately owned motor vehicle.

² The applicant’s military record contains numerous page 7s counseling the applicant about his tardiness. One page 7 counseled the applicant about bringing a weapon into the barracks, a violation of a Coast Guard regulation. The page 7 notes that while the applicant was playing with the gun, he accidentally shot himself in the foot.

actions, a Command Directed Mental Health Evaluation . . . was requested and accomplished on 8 and 9 February 2007. This evaluation consisted of a clinical interview and psychological testing. The evaluation revealed that [the member] is unable to adapt to military life and unable to perform duties in the foreseeable future. It was his opinion based on the information provided that this member is not fit for duty or worldwide qualified from a mental health perspective. It was recommended that [the member] be administratively separated from the Coast Guard.

On April 5, 2007, CGPC approved the applicant's discharge from the Coast Guard. CGPC stated that the applicant should be discharged with an honorable discharge due to unsuitability under Article 12.B.16. of the Personnel Manual due to apathy, defective attitudes, adjustment disorder, and inability to expand effort constructively. CGPC directed that the applicant receive a JNC separation code and unsuitability as the narrative reason for separation.

Discharge Review Board (DRB)

Prior to filing his application with the Board, the applicant asked the DRB to correct the basis for his discharge and separation code from "unacceptable conduct" to "condition, not a disability." The DRB panel members voted to change the separation authority from Article 12.B.16. (unsuitability) to Article 12.B.12. (convenience of the government), the separation code from JNC (unacceptable conduct) to JFV (condition, not a disability), the narrative reason from "unacceptable conduct" to "condition, not a disability", and the reenlistment code from RE-4 to RE-3G. The Vice Commandant (reviewing authority for the DRB) did not agree with the DRB and instead left the RE code and the separation authority unchanged and changed the separation code to JFY (involuntarily separated due to adjustment disorder) and the narrative reason to "adjustment disorder". These changes were made to the applicant's DD 214 through the issuance of a DD 215.

As indicated earlier, the applicant was dissatisfied with the relief granted by the DRB and brought his case to the BCMR. He asked that the Board change the reason for his separation and related separation code to "condition, not a disability," with an RE-3G reenlistment code.

VIEWS OF THE COAST GUARD

On March 16, 2011, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief in accordance with a memorandum from the Commander, Personnel Service Center (PSC).

PSC noted that the Vice Commandant did not agree with the recommendation of the DRB panel and modified their decision. PSC stated that during the period that elapsed between the DRB panel's recommendation on August 27, 2008, and the Vice Commandant's decision on September 25, 2009, the Coast Guard issued updated guidance with respect to the separation codes and narrative reason to be assigned to members discharged because of an inability to adapt to military life.

PSC attached to its memorandum a copy of ALCOAST 252/09 (Addition of the Adjustment Disorder Narrative Reason and Separation Program Designator (SPD) Codes to the Separation Program Designator Handbook), which was issued on April 29, 2009. The ALCOAST stated the following in pertinent part:

3. The Department of Defense recognized the need for the additional narrative reason and SPD codes that better fit the cause for discharge when a member is unable to adapt to military life. The FY series was created with the narrative reason adjustment disorder, specifically for members diagnosed with an adjustment disorder not amounting to a disability.

4. Effective immediately, one of the following narrative reasons and SPD codes will be used when a member is diagnosed with an adjustment disorder in accordance with Chapter 5 [of the Medical Manual].

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D. SPD code JFY, narrative reason adjustment disorder. Involuntary discharge directed by an established directive when an adjustment disorder exists, not amounting to a disability, which significantly impairs the member's ability to function effectively in the military environment.

5. The discharge separation authorities and member entitlements will remain in accordance with . . . 12.B.16 . . . For enlisted personnel, the re-entry code assigned can be either an RE-3G or RE-4. CG PSC (EPM-1) will review the separation packages and make the determination for which re-entry code should be applied.

6. Members separated with the FY series SPD codes will be authorized transition assistance benefits . . .

PSC stated that the applicant's RE-4 reenlistment code should remain as originally assigned and as reaffirmed by the Vice Commandant. PSC stated that "under the prevailing circumstances, CG-PSC concurs with the findings of the Vice Commandant's office in their entirety, as the Coast Guard is presumptively correct." PSC stated that the applicant has failed to substantiate any error or injustice with how current policy and regulations are carried out and enforced with respect to this administrative discharge.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 21, 2011, the Board sent a copy of the views of the Coast Guard to the applicant for a response. The Board did not receive a reply from the applicant.

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 submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10 of the United States Code. The application was timely because the applicant submitted his application to the Board within 3 years of his DRB decision, which was issued on September 25, 2009.

2. Although the DRB changed the applicant's separation code from JNC to JFY and the narrative reason from "unacceptable conduct" to "adjustment disorder," he maintains that his DD 214 is erroneous and he asked this Board for the following relief: change the separation from Article 12.B.16. to Article 12.B.12. of the Personnel Manual, change the separation code from JFY to JFV, change the reenlistment code from RE-4 to RE-3G, and change the narrative reason from "adjustment disorder" to "condition, not a disability." For the reasons discussed below, the Board finds that the applicant has not proved an error or injustice in his military record.

3. The DD 214 given to the applicant upon his discharge from the Coast Guard correctly listed the separation authority as Article 12.B.16. (unsuitability/adjustment disorder) of the Personnel Manual. However, the JNC ("unacceptable conduct") separation code and the "unacceptable conduct" narrative reason for separation did not accurately reflect the basis for the applicant's discharge, which was an adjustment disorder. Prior to the issuance of ALCOAST 252/09, and as indicated in Docket No. 2008-127, there were no codes in the SPD Handbook that accurately reflected discharge because of an adjustment disorder. Therefore, for applicants who were discharged because of an adjustment disorder prior to the issuance of ALCOAST 252/09 on April 29, 2009, and whose DD 214s reflected an erroneous reason for discharge that was also prejudicial, i.e. personality disorder, the Board would correct those records to reflect a more accurate and/or less prejudicial reason for discharge and assign the corresponding separation code.

4. As the advisory opinion stated, the Coast Guard recently recognized that the SPD Handbook did not include codes that reflected discharge because of an adjustment disorder. So, on April 29, 2009, the Coast Guard issued ALCOAST 252/09, which amended the SPD Handbook to authorize the FY series of SPD codes for discharges because of an adjustment disorder. ALCOAST 252/09 also authorized "adjustment disorder" as the narrative reason for separation, maintained Article 12.B.16. of the Personnel Manual as the separation authority, and authorized either an RE-3G or an RE-4 as the reenlistment code.

5. The Vice Commandant of the Coast Guard who is the approval authority for the DRB applied the new regulation to the applicant's DRB application and directed that his separation code be changed to JFY and the narrative reason be changed to "adjustment disorder". The Vice Commandant left the separation authority as Article 12.B.16. of the Personnel Manual and the reenlistment code as RE-4. The applicant's DD 214 as corrected by the DD 215 is in compliance with the SPD Handbook, as amended on April 29, 2009, and accurately reflects the reason for the applicant's separation. The Board notes that the applicant did not object to his adjustment

disorder discharge when given the opportunity to do so. Nor did he submit a response to the advisory opinion.

6. ALCOAST 252/09 leaves the decision of whether a member should receive an RE-3G or an RE-4 reenlistment code for an adjustment disorder to PSC. The applicant was assigned a RE-4 reenlistment code upon his discharge and that was not changed by the DRB. The Board having reviewed the applicant's record, which includes numerous page 7 counseling entries, two captain's masts, and an adjustment disorder diagnosis indicating that he could not adapt to the military, finds that the RE-4 reenlistment code is not erroneous or unjust. The Board notes that a July 24, 2007 DVA psychiatric report stated that the applicant did not have any psychiatric illnesses, although he demonstrated some attributes of bipolar disorder. However, there is sufficient evidence of misbehavior in the applicant's military record to support the RE-4 reenlistment code regardless of his post-service diagnosis.

7. Accordingly, the applicant has failed to prove an error or injustice in his military record, and his request should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of former XXXXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is denied.

Julia Andrews

Robert S. Johnson, Jr.

James H. Martin