

Sample COD Administrative Decision

DEPARTMENT OF VETERANS AFFAIRS

[Designation of VA Office]

[File Number]

[Location of VA Office]

[Former Service Member's Name]

ADMINISTRATIVE DECISION

ISSUE: Character of discharge for the period of service [add service dates for the period(s) at issue].

EVIDENCE: [Use bullets to list all documents and information reviewed in making the decision. Identify the evidence using the standards in M21-1, Part V, Subpart iv, 1.A.4.] For example:

- *VA Form 21-527EZ, Application for Veterans Pension* received September 6, 2022.
- Response to advanced notice that VA will be making a COD determination, received November 9, 2022.
- STRs received on November 25, 2022, for the period March 2002 to November 2004.
- Service personnel records received on November 25, 2022, for the period March 2002 to November 2004.

PERTINENT LAWS AND REGULATIONS: [List laws and regulations applicable to the decided issue(s).]

[Copy and paste applicable text from the relevant law(s) and/or regulation(s) that are required to determine the issue.]

[Include in all decisions.] According to 38 CFR 3.12(a), if the former service member did not die in service, then pension, compensation, or Dependency and Indemnity Compensation (DIC) is not payable unless the period of service on which the claim is based was terminated by discharge or release under conditions other than dishonorable (38 U.S.C. 101(2)).

[Copy and paste the text of only the applicable paragraph(s)/subparagraphs from 38 CFR

- 3.12(c)(x) if/when the discharge potentially poses a statutory bar to benefits
- 3.12(d)(x) if/when the discharge potentially poses a regulatory bar to benefits, and/or
- 3.13(c) for conditional discharges.]

[It may be necessary to include applicable portions of other regulations such as 38 CFR 3.13, 38 CFR 3.14, 38 CFR 3.105(c), or 38 CFR 3.354 depending on the facts; however, do not copy and paste the regulations into decisions when they are not applicable.]

[Include the following only in decisions where the service was dishonorable for VA purposes, and therefore there was no basic eligibility to VA benefits requiring Veteran status, but further consideration was given to basic eligibility to health care only for former service members under 38 CFR 3.360.] As stated in 38 CFR 3.360(a) and (b), the health care and related benefits authorized by Chapter 17 of Title 38 U.S.C. shall be provided to certain former service members with administrative discharges under other than honorable conditions for any disability incurred or aggravated during active military, naval, or air service in line of duty. With certain exceptions such benefits shall be furnished for any disability incurred or aggravated during period of service terminated by a discharge under other than honorable conditions. Specifically, they may not

be furnished for any disability incurred or aggravated during a period of service terminated by a bad conduct discharge or when one of the bars listed in 38 CFR 3.12(c) applies.

DECISION: [Clearly and briefly state the decision here, but not the reasons for it.] For example:

Your discharge from [name of branch of service] for the period of service from [EOD date to RAD date] is [other than dishonorable/dishonorable for VA purposes]. You [have/do not have] basic eligibility to VA benefits.

[Only include a second decision with respect to a period of service when the individual filed a claim and the first decision above finds no basic eligibility.] You [meet/do not meet] the basic eligibility criteria in 38 CFR 3.360 for health care benefits under Chapter 17, Title 38 U.S.C.

REASONS AND BASES: [This section must be prepared in accordance with the guidelines found in M21-1, Part X, Subpart v, 1.C.2.e, and included on all administrative decisions, including favorable ones.]

[Always address that insanity was considered. Include the following statement.] Insanity [is/is not] an issue. [Provide a brief explanation of the contention or facts putting insanity at issue.]

[When insanity is at issue, discuss the determination made. Select one of the following statements as applicable]:

- Based on the facts showing [summarize the facts bearing on the 38 CFR 3.354(a) standard] we have determined that you met the VA definition of insanity at the time of the conduct resulting in your discharge and its characterization, we find that you were not at fault and you are not precluded from VA benefits.
- Based on the facts showing [summarize the facts bearing on the 38 CFR 3.354(a) standard] we have determined that you did not meet the VA definition of insanity at the time of the conduct resulting in your discharge and its characterization.

[When the type of court-martial is relevant to the regulatory finding – for example, see the criteria in 38 CFR 3.12(c)(1) and 38 CFR 3.12(d)(1) – include one of the following]

- Your [list service branch discharge characterization] discharge was part of a sentence of a general court-martial.
- Your [list service branch discharge characterization] discharge was part of a sentence of a [summary of special] court-martial.
- You accepted an [OTH or BCD] to escape trial by a general court-martial.

[Always sum up the decision.] For example:

Based on the evidence listed and discussed above, we conclude that the conduct for which you were discharged from service, and upon which your service characterization was based, [is/is not] a bar to benefits under 38 CFR 3.12(x)(x) [When finding a bar, fill in the 38 CFR 3.12 paragraph. When finding that a bar is not met, simply refer to 38 CFR 3.12]. Therefore, the discharge for the period of service [dates of service] was [other than dishonorable/dishonorable] for VA purposes and basic eligibility to all VA benefits [is/is not] established.

[When the decision is that there is a bar under 38 CFR 3.12 to VA benefits requiring Veteran status, and the individual filed a claim for benefits for a disability, address basic eligibility to health care for a former service member under 38 CFR 3.360. Note: There should be no

decision, and no reasons and bases on this secondary determination where basic eligibility to all benefits is established.]

FAVORABLE FINDINGS: [When this heading is applicable, list any favorable findings that are made. See M21-1, Part X, Subpart iv, 1.A.1.i, for more information on when the heading is required.]