

**§ 724.223**

**32 CFR Ch. VI (7-1-13 Edition)**

**§ 724.223 NDRB support and augmentation by regular and reserve activities.**

(a) When an NDRB Panel travels for the purpose of conducting hearings, it shall normally select Navy or Marine Corps installations in the area visited as review sites.

(b) The NDRB Traveling Board shall normally consist of members from the NCPB and augmentees from regular and reserve Navy and Marine Corps sources, as required.

(c) Navy and Marine Corps activities in the geographical vicinity of selected review sites shall provide administrative support and augmentation to an NDRB Panel during its visit where such assistance can be undertaken without interference with mission accomplishment. The NDRB shall coordinate requests for augmentees and administrative support through Commandant of the Marine Corps or the Chief of Naval Reserve, as appropriate.

(d) The administrative staff of the NDRB shall undertake all arrangements for NDRB Traveling Panel visits and shall process associated review documents.

[50 FR 10943, Mar. 19, 1985, as amended at 75 FR 747, Jan. 6, 2010]

**§ 724.224 Court-martial specifications, presumption concerning.**

(a) Relevant and material facts stated in a court-martial specification, shall be presumed by the NDRB Panel as established facts. With respect to a discharge or dismissal adjudged by a court-martial case tried under the Uniform Code of Military Justice, the action may extend only to change in the discharge or dismissal for purposes of clemency. This policy only applies to cases filed with the discharge review board after December 6, 1983.

(b) Relevant and material facts stated in a court-martial specification, in the face of which the applicant requested a discharge for the good of the service to avoid trial by court-martial, shall be considered in accordance with the following:

(1) If the applicant/accused was required to admit the facts contained in the charge sheet, or if the discharge authority was required to find that the stated facts were true, then the NDRB

can presume the truth of such facts, unless there is a substantial credible evidence to rebut this presumption; or

(2) If the discharge in lieu of court-martial only required a valid referral, the NDRB may presume that the signer either had personal knowledge of, or had investigated the matters set forth, and that the charges were true in fact to the best of the signer's knowledge and belief.<sup>1</sup> The weight to be given this presumption in determining whether the facts stated in the charge sheet are true is a matter to be determined by the NDRB. To the extent that the discharge proceeding reflects an official determination that the facts stated in the charge sheet are true; that the applicant/accused admitted the facts stated in the charge sheet; or that the applicant/accused admitted guilt of the offense(s), then the presumption is strengthened. In accordance with paragraph B12f of enclosure (3) to 32 CFR part 70 the presumption may be rebutted by "substantial credible evidence."

**Subpart C—Director, Secretary of the Navy Council of Review Boards and President Naval Discharge Review Board; Responsibilities in Support of the Naval Discharge Review Board**

**§ 724.301 Mission.**

To administer and supervise assigned boards and councils within the Department of the Navy.

**§ 724.302 Functions: Director, Secretary of the Navy Council of Review Boards.**

(a) Make recommendations to the Secretary of the Navy regarding organization, tasking and resources of the

<sup>1</sup>Charges may be preferred by any person subject to the Uniform Code of Military Justice. The charges must be signed and sworn to before a commissioned officer authorized to administer oaths, and shall state that the signer has personal knowledge of, or has investigated the matters set forth therein; and that the charges are true in fact to the best of the signer's knowledge and belief. 10 U.S.C. 830 (1976) (Art. 30 Uniform Code of Military Justice).