

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1997-177

FINAL DECISION

██████████ Deputy Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on September 8, 1997, upon the Board's receipt of the applicant's request.

This final decision, dated July 23, 1998, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Application for Relief

The applicant, a LTJG (pay grade O-2), asked the Board to adjust his date of rank as an ensign from ██████████ to ██████████ the date he graduated from the Coast Guard Academy.

On March 30, ██████████ prior to his graduation, the applicant suffered a knee injury that required surgery. The knee was surgically repaired on April 23, ██████████ The applicant graduated on May 19, ██████████ He did not receive a commission at that time because he was determined to be "not fit for duty." He received a commission on July 23, ██████████ and he has served on active duty since that time.

The applicant stated that after graduation he remained at the Academy, "filling the same roles as [his] classmates serving as summer interns with no limitations." The applicant claimed that his subsequent commission on July 23, ██████████ caused him to be placed last among his classmates on the register of officers. The result was that approximately 100 other officers who received earlier commissions through the officer candidate program to be placed above him on the register in that year.

In concluding his statement, the applicant stated the following:

The injury to my knee was through no misconduct of my own, requiring rehabilitation beyond my control. A cadet at the Academy is required to participate in competitive sporting events, which I was doing at the time of my injury. I feel that it is unfair to punish me based solely on the

unfortunate timing of the accident. Had this injury occurred at any time other than this three month window, my appeal would be unnecessary.

The Academy was legally correct in its actions, this I do not dispute. However, in all fairness, this seems a harsh punishment for an injury that I could not prevent, and one that would not have affected my career path in the slightest had it occurred at any other juncture.

Views of the Coast Guard

The Chief Counsel submitted the Coast Guard views in this case. He recommended that the Board deny relief.

The Chief Counsel stated that the applicant was not commissioned with his Academy class because he was not physically qualified for commissioning. Article 3.E.2. of the Coast Guard Medical Manual states that "[p]reappointment physical examinations of cadets in the graduating class should be held at least 6 months prior to acceptance of commission. This physical examination should be conducted to determine fitness for commission in the Regular Service . . . with recommendations made accordingly."

The chief counsel also stated the following:

While [the applicant] was allowed to graduate, he did not meet the physical standards for commissioning. This setback caused him to lose his class standing and signal number position. However, he was allowed to continue rehabilitation on the knee which later qualified him for commissioning. His classmates, were commissioned on schedule and embarked on a career as active duty Coast Guard officers. He remained at the Academy in a cadet status and was assigned duties commensurate with his status. To allow him to assume a rank and signal number status any earlier than the date he met commissioning standards, would be "unfair" to other officers who were fully qualified on said date or any date thereafter who are senior to him in rank. This would directly affect an OCS class (55) people that graduated on July 16, [REDACTED]

The Chief Counsel stated that the Coast Guard's action in the applicant's case was not erroneous or unjust. His record is correct. Neither a lack of fault for the disqualifying condition, nor subsequent performance, provide a basis for changing the applicant's record to indicate an earlier commissioning date.

Applicant's Reply to the Views of the Coast Guard

A copy of the Coast Guard views was mailed to the applicant on June 17, 1998. He did not submit a response.

FINDINGS AND CONCLUSIONS

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

1. The BCMR has jurisdiction of this case pursuant to section 1552 of title 10, United States Code. The application was timely.

2. The applicant has not shown that his date of commissioning, July 23, [REDACTED] is in error or unjust. The applicant suffered a knee injury just prior to graduating from the Coast Guard Academy. He was determined at that time to be unfit for commissioning. The action on the part of the Coast Guard not to grant the applicant a commission at the time of his graduation was in accordance with the law and regulations. See 14 U.S.C. § 211 and Article 3.E.2., Coast Guard Medical Manual.

3. Once medical personnel determined that the applicant met the medical standards, he was commissioned as an ensign in the United States Coast Guard. The applicant stated that there was no error on the part of the Coast Guard, but he argues that he suffered an injustice in that he did not receive his commission until July 23, [REDACTED] approximately two months after his classmates were commissioned.

4. This argument is without merit. The applicant was simply not qualified for a commission at the time of his graduation. All personnel receiving commissions must be physically qualified to serve. The applicant should be treated no differently simply because he graduated from the Coast Guard Academy.

5. Accordingly, his application for relief should be denied.

ORDER

The application of [redacted]
military record is denied.

[redacted], USCG, for correction of his

