

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2007-125**

**XXXXXXXXXX.**  
XXXXXXXX, LT

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**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 case on April 20, 2007, upon receipt of the completed application, and subsequently prepared the final decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated February 7, 2008, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST**

The applicant asked the Board to correct her record by removing a special officer evaluation report (SOER) for the period from March 16, 2004 to May 5, 2004. She also requested that the captain's mast (non-judicial punishment (NJP)) imposed on May 5, 2004 be removed from her record.

**BACKGROUND**

The applicant is a lieutenant (LT) in the regular Coast Guard. She is a graduate of the Coast Guard Academy. While assigned to a Coast Guard cutter as the operations officer (third in command on that cutter), the applicant was taken to mast for a violation of Article 92 of the Uniform Code of Military Justice (UCMJ). The specification stated that the applicant failed to obey a lawful order in that "[she] did, . . . on or about [March 16, 2004], violate the Coast Guard Interpersonal Relationship regulations (section 8H, PERSMAN) when she engaged in a sexual encounter with SN [J] on the flying bridge of CGC [C] while moored in [GB]" The commanding officer punished the applicant by restricting her to the Integrated Support Command, New Orleans for 30 days and he also issued a non-punitive letter of reprimand.

## *Applicant's NJP Appeal*

On May 10, 2004, the applicant appealed the mast to the Commander, Eighth Coast Guard District (Commander). In her appeal she complained that she was not advised of her Miranda-Tempia warnings (Article 31(b) rights) under the UCMJ<sup>1</sup> until 12 hours prior to the NJP proceedings that was held on May 5, 2004. She alleged that when she reported the incident on March 16, 2004, she thought that her command understood that she was reporting an alleged sexual assault. She stated that she was not aware that she was suspected of an offense until the cutter returned from a patrol on April 21, 2004. The applicant stated that her first opportunity to contact legal counsel was at 2200 on May 4, 2004 when she signed her Miranda-Tempia warnings waiving her right against self-incrimination and her right to consult with counsel. She stated that the executive officer told her not to expect legal counsel to be available at 2200 that night but that he would give her the phone number if she desired to contact legal counsel. The applicant argued that her declination of counsel on the Miranda-Tempia warnings form simply indicated her decision not to call anyone at 2200 that night and it was not a statement that she did not want counsel at all.

The applicant also complained that she and her mast representative were not provided with the materials for the mast until 2200 on May 4, 2004. According to the applicant, this was an insufficient amount of time for them to process the information prior to the mast on May 5, 2004. The applicant further stated that she wanted to plead innocent to the charges, but her mast representative told her that admitting the allegations would do the least amount of damage to her career and was, therefore, the best option.

The applicant denied that she had consensual sexual relations on board a Coast Guard unit with an enlisted member. She stated that at the beginning of the incident she was hysterical and resisted the advances made toward her by verbally expressing her disapproval and saying "No, I can't do this." She stated that she was scared and repeatedly attempted to halt the situation. She stated that she was eventually able to stop the situation by running away. The applicant further stated the following in her appeal:

I am not satisfied that his assault has been handled in an appropriate manner. I feel [the cutter] has an obligation to recognize a sexual assault report and to be

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<sup>1</sup> Article 31 (Compulsory self-incrimination) of the UCMJ states as follows:

"(a) No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

"(b) No person subject to this chapter may interrogate, or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make a statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

"(c) No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidences is not material to the issue and may tend to degrade him.

"(d) No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial."

able to respond to an assault victim, which I believe I am. In the initial interview I had with the [XO], I was feeling guilty about the incident. The command perceived I was admitting guilt of consensual relations, when in fact my feelings were what I understand are a typical response to sexual assault and these feelings were not recognized nor responded to by [the cutter].

*Commanding Officer's (CO) Comments on the NJP Appeal*

On May 12, 2004, the applicant's commanding officer (CO) recommended that the Commander, Eighth Coast Guard District (Commander) deny the applicant's appeal. The CO stated that at the mast he had before him the preliminary investigation, CG 4910 (Report of Offense and Disposition (often called a booking or report chit)), Witnesses' statements, CGIS investigation<sup>2</sup>, the applicant's service record, and the live statements of the XO, the applicant's mast representative, and the applicant who admitted to the allegations. The CO stated that based on the documentary, written, and oral evidence, he resolved the disputed issues and found the following:

- "a. That [the applicant] was drinking on the pier in Guantanamo Bay, Cuba on the night of 15 March 04.
- "b. The [the applicant] had been consuming alcoholic beverages prior to the incident.
- "c. That [the applicant] left the pier and went to the fantail where she was joined with two other crewmembers.
- "d. That [the applicant] of her volition, left the fantail and went to the flying bridge with an E-3.
- "e. That while on the flying bridge with the E-3 she engaged in an inappropriate consensual sexual encounter with him.
- "f. That when [the applicant] wanted to cease the encounter, she did so freely and voluntarily. She then was able to leave the E-3 and departed the area without restraint.
- "g. That based on the statements given by [the applicant] and statements contained in the CGIS report which were not challenged during the mast proceeding, I find that the allegations of assault, sexual or otherwise are unfounded."

In recommending that the mast appeal be denied, the CO stated that the applicant's initial admission of the incident was made to the XO and HSC G<sup>3</sup>. He stated that at that time the applicant was not the focus of any criminal investigation and was not in custody or suspected of any wrong-doing, and therefore, her statements would be considered a spontaneous statement against her interest, which is generally admissible in a criminal proceeding. He noted however,

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<sup>2</sup> The Board obtained an unredacted copy of the CGIS investigation with a cover memo stating that any disclosure and copying of the investigation was not authorized. The Board requested a redacted copy but it was not provided. Accordingly, the Board did not consider the contents of the CGIS investigation in deciding this case. See 33 CFR § 52.43. However, the record indicates that the applicant was provided with a copy of the investigation prior to mast and she actually submitted a witness statement from the investigation in presenting her case to the Board. Considering that the applicant has the burden of proof, she could and should have submitted the complete investigation to the Board, if she considered it important to her case.

<sup>3</sup> At the time of the incident this individual was an HS1 and was subsequently advance to HSC. He will be referred to as an HSC throughout this decision.

that rules of evidence do not apply in mast proceedings and that the CO may hear evidence in a mast proceeding, which otherwise may not be admissible in a criminal trial.

With regard to the applicant's complaint about her mast representative, the CO stated that at no time during the mast proceeding did the applicant make the CO aware of her concerns about her mast representative, nor did she request a continuance of the proceeding to procure another mast representative.

With regard to the applicant's allegation that she was not allowed adequate time to seek legal counsel, the CO stated that it is well settled that a member attached to or embarked on a vessel has no right to demand a trial by court-martial in lieu of NJP, or consequently, to consult with a military or civilian attorney prior to NJP regarding the option to demand a trial by court-martial. "A [CO] at his or her sole discretion, and if it does not unduly delay proceedings, may permit the member to consult with an attorney."

The CO stated that the applicant's allegation that she was not afforded adequate time to review evidence that would be used in the proceeding was raised for the first time on appeal. The CO stated that the MJM allows the CO, in NJP, to review the documents and evidence for the first time with the member during the mast hearing. The CO stated that in the applicant's case, she was given copies of the report of investigation the day before the proceedings.

*Denial of NJP Appeal by Commander, Eighth Coast Guard District (Commander)*

On June 4, 2004, the Commander denied the applicant's appeal and informed her that her allegations on the alleged improper handling of her sexual assault complaint would be addressed in a separate letter. With respect to the NJP appeal, the Commander found no basis to conclude that the mast proceeding was either unjust or that the punishment imposed was disproportionate to the act of misconduct. He further stated that the CO appropriately considered the evidence and circumstances surrounding the offense and that the misconduct for which the applicant was punished is highly prejudicial to good order and discipline of the unit and brings discredit upon the Coast Guard.

The Commander stated that under Article 31(b) of the UCMJ "[n]o person subject to this chapter may interrogate, or request any statement from an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial." He informed the applicant that her reporting of the incident on March 16 was a voluntary act on her part and that it came at a time that the cutter was readying to get underway. The Commander stated that the interaction between the applicant, HSC G and the XO was aimed at quickly gathering information, assessing the situation, and making an appropriate personnel decision. The Commander stated that the record did not indicate that there was any interrogation or request for statements from the applicant, "other than fact-driven questions to determine if you believed that your encounter with [the enlisted person] was non-consensual. The Commander noted that the applicant subsequently spoke with the CO, but he did not question her about the incident or seek any further statements. The Commander stated that the CO left the applicant in

Guantanamo Bay to seek counseling, but he also noted that it was command policy to remove the senior crewmember from the vessel when allegations of the nature involved in this case arose.

According to the Commander, the cutter returned to port on March 22, 2004 and the applicant requested to meet with the CO. It was at this meeting that the applicant reported that she believed that the incident with the enlisted person had been a sexual assault. Coast Guard Investigative Service (CGIS) was contacted and an investigation was undertaken. He informed the applicant that her interview with CGIS was that of an alleged victim of an assault and the investigation was not initiated in response to any alleged violation of Coast Guard policy.

Specifically, with respect to the applicant's allegation that her Article 31(b) rights were violated, the Commander stated that one could argue that she should have been given such rights during the CGIS interview. The Commander stated however that such a violation would not have materially prejudiced the outcome of the mast proceeding. First, he stated that the rules of evidence do not normally apply at a mast proceeding and second that excluding any statement the applicant made during the CGIS investigation, there was still sufficient evidence for the CO to determine that a consensual sexually intimate encounter occurred. In this regard, he stated the following:

[The Coast Guard Personnel Manual] prohibits members from engaging in sexually intimate behavior on board any Coast Guard vessel. [It] also states that such factors used in assessing the propriety of interpersonal relations between officer and enlisted personnel include the organizational relationship of the members, the relative rank and status of the individuals, and the character of the relationship. It is undisputed that at the time of the incident you were the Operations Officer on board [the cutter]. You and [the enlisted member] were on the flying bridge together. You embraced each other and laid on the deck with you head on [the SN's] chest. The nature of your conversation transgressed from casual conversation about constellations to personal matters. Based on your initial account of the incident that you voluntarily made to HSC [G] and the [XO], you admitted to having physical contact of a sexually intimate nature with [the enlisted member] on board [the cutter]. Statements provided by [the enlisted member] indicate that you placed or had your hand placed on [his genitals]. You further acknowledged that you were not "handled" or forced during the encounter. During your interview with CGIS agents, initiated after disclosing that you believed that the encounter was non-consensual in nature, you admitted to voluntarily engaging in physical contact of a sexually intimate nature with [the enlisted member]. These actions are a violation of [the Personnel Manual] and as such, a violation of Article 92 of the UCMJ. You were given your Article 31(b) rights approximately 12 hours prior to the mast proceeding on May 4, 2004. Additionally, you understood your rights during the mast proceeding and elected to admit the offense charged. Even discounting your admissions contained in the [record of investigation], the CO had sufficient evidence to bring you to a mast proceeding and find you had committed the offense based on a preponderance of the evidence. Your allegation that Article 31(b) right were not given in a timely

manner did not materially prejudice the outcome of the mast, and therefore the mast proceeding was not unjust.

The commander was not persuaded by the applicant's argument that she did not have sufficient time to review the mast materials prior to mast. He made similar findings as to those articulated by the CO. Neither was the Commander persuaded by the applicant's complaints against her mast representatives. Again he made the same findings with regard to this issue as the CO made.

With respect to the applicant's argument that she did not waive the right to consult with counsel, the Commander stated the following:

[The suspect's rights form] indicates that you voluntarily chose to waive your right to consult a lawyer and that you desired to make a statement during the proceedings. You allege that when you signed the warning you did not understand that the result was that you were waiving your opportunity to consult with a lawyer on the following day (the day of the mast). However during the mast you did not indicate that you wished to revoke your waiver or consult with a lawyer even though you were again provided with that opportunity. Furthermore, as a member of the military attached to a vessel you have "no right to demand trial by court-martial in lieu of NJP, or consequently, to consult with a military or civilian attorney prior to NJP regarding the option to demand trial by court martial in lieu of NJP, or consequently, to consult with a military or civilian attorney prior to NJP regarding the option to demand trial by court-martial." . . . In accordance with chapter 1.C.4 of [the MJM], a spokesperson may appear at a mast in lieu of a mast representative and must be selected and arranged for by the member. However, because a mast is not an adversarial proceeding a spokesperson is not permitted to examine or cross-examine witnesses.

The Commander told the applicant that he did not find her punishment disproportionate. He stated that the maximum punishment she could have received was 30 days restriction and a punitive letter of reprimand. Her punishment was 30 days restriction and a non-punitive letter of reprimand.

#### *Review of Handling of Sexual Assault Allegation*

In a letter to the applicant dated June 4, 2004, the Commander advised the applicant that he takes all assault allegations seriously and therefore, he directed his legal staff to conduct an independent review of the procedural actions taken by the command following the applicant's report that she had been a victim of sexual assault. The Commander stated that although there may have been some irregularities in the sequence in which follow-up action was taken, he found that the applicant's report of a sexual assault was handled in an appropriate manner.

The Commander stated that COMDTINST 1754.10A (cancelled on April 2, 2004 by COMDTINST 1754.10B) outlined the Coast Guard's procedures in reporting rapes or sexual assaults. He noted that the CO had primary responsibility for carrying out the following upon

receipt of a rape or sexual assault report: immediately refer rape or sexual assault victims to medical or mental health resources and closely monitor victim's progress; establish direct contact between the victim and Employee Assistance Program Coordinators (EAPC); offer mental health intervention to a person who falsely reports rape and sexual assault, since such behavior can indicate the person has unresolved psychological or emotional issues; immediately notify the servicing regional Coast Guard Investigative Services office, Special Agent in charge, by telephone of all alleged rape or sexual assault incident in which active duty Coast Guard members or their dependents are victims or assailants to ensure investigative efforts are pursued immediately and evidence protected; consult with a law specialist prior to taking disciplinary or administrative action against the suspected offender; and ensure the victim is informed of his/her rights, options, and available resources throughout the investigative and legal processes.

The Commander found that the CGIS investigation was thorough and properly conducted and that the actions taken by the CO were consistent with Coast Guard and command policies. The Commander also found that the CO failed to fully comply with the reporting requirements outlined in the instruction. The Commander stated:

Ultimately, however, those procedures were fully implemented. Specifically, it appears that once you were sent back to Mobile, your command did not ensure that you were in contact with mental health resources in the Mobile area, did not ensure direct contact between you and EAPC, and did not initially inform you of your rights, options, and available resources throughout the investigative process. In large part, these omissions appear to have been due to the operational commitments of [the cutter] and the communication difficulties inherent in those operations.

While these oversights are regrettable, I note that you were eventually contacted by the EAPC staff and did receive timely counseling. I encourage you to continue to utilize these important resources. To that end, I have ordered that the terms of your restriction be modified to facilitate follow-up contact with your counselor.

#### *The Special OER (SOER)*

A SOER for the period March 16, 2004, to May 5, 2004, was prepared and submitted for the following reason:

This OER is submitted under Article 10.A.3.c.1.b due to non-judicial punishment on 5 May 2004, for violation of Article 92 of the UCMJ, failure to obey an order or regulation, Section 8H of the Personnel Manual. Punishment awarded was 30 days restriction.

In Block 5 (Leadership Skills) of the SOER, the applicant's observed marks consisted of a 3 in workplace climate. The comments were as follows:

Unit was in the middle of a two month deployment in theater of Op ABLE Sentry when incident occurred, disruption and curiosity amongst the crew significantly

decreased unit focus and morale during peak op tempo. Loss of watchstander & Dept Head greatly increased burden and stress on other OODs and negatively impacted unit's operational efficiency.

In Block 8 (Personal and Professional qualities) of the SOER, the applicant's observed marks consisted of 2s in the judgment and health and wellbeing categories. The comments were as follows:

Used extremely poor judgment regarding interpersonal relationship with non-rated crewmember, violated the Personnel Manual 8H policy. Actions led to the need for a premature relief of this officer as the Operations Department Head and permanent removal from the ship. Actions brought discredit to the command and the Coast Guard at large. Irresponsible use of alcohol; excessive alcohol consumption found to be a significant casual factor, first alcohol incident.

The applicant was marked as a qualified officer, the equivalent of a 2 (out of a high of 7) on the comparison scale where the reporting officer compared her with other LTs that he has known throughout his career.

In block 10 of the SOER, the reporting officer described the applicant's potential in the following manner:

Up to the time of this incident [the applicant] had performed all manner of duties adequately and was a trusted OOD both U/W and import. It is only because of that performance that I continued to endorse [the reported-on officers'] promotion to O-3. I do not endorse this officer's current orders to USCGA Instructor Program and recommend reassignment to a support or administrative assignment at a District or HQ. This officer is neither a belligerent nor a malcontent, but the regulation concerning inappropriate relationships and conduct in conjunction with the consumption of alcohol are explicit. This behavior can neither be condoned nor ignored and is contrary to the Coast Guard's core values.

The applicant submitted a reply to the SOER disagreeing with the marks and comments. She stated in the reply that her actions did not have a negative impact on workplace climate. She noted that in her appeal of the NJP she stated that she did not consent to the sex act with the SN. She further argued as she had in her appeal of the NJP that while she was intoxicated, the SN took advantage of her and physically placed her in a position that she could not escape.

## **ALLEGATIONS**

The applicant stated that prior to the March 16, 2004 incident, the cutter had been underway for several weeks and it was an especially stressful time for the crew. In addition, it was an especially stressful time for her due to family problems. The day of the incident had been a particularly trying day for the applicant because the ship had a near-grounding while she was serving as OOD. The applicant further stated that work days were long, the ship was down to two junior officers, and the tropical environment was exhausting.

The applicant stated that on March 15 pier-side liberty was granted to all hands and the consumption of alcoholic beverages was authorized, except for the duty section. The applicant stated that all hands partook of beers and hard liquor; some at various clubs, while others like the applicant enjoyed themselves throughout the evening in the vicinity of the ship. According to the applicant she became inebriated. She alleged that the enlisted member who had also been drinking took advantage of her by leading her back aboard the cutter and up to the flying bridge, which is a secluded part of the ships superstructure. The applicant stated that she is 5'2" in height and weighed approximately 130 lbs and that the enlisted member is 6' tall and roughly twice her weight. She stated that she was more inebriated than he was. The applicant claimed that the enlisted man caused her to engage in a sexual act with him on the flying bridge at approximately 0100 hours. The applicant alleges that the enlisted member was the initiator and sought to deflect responsibility for the incident onto her. She stated that there were no third party witnesses to the incident.

The applicant stated that she fled the flying bridge at her first opportunity, and still inebriated sought the seclusion of her stateroom. She stated that when she awoke several hours later she brought the incident to the attention of the ship's corpsman, and thereafter to that of the XO. She stated that she did not use the word assault because she was still in shock from the disturbing event.

The applicant stated that the command reacted by sending her ashore so she could obtain the assistance of a mental health provider and a chaplain. She stated that the ship got underway and subsequently returned to port after a week, at which time she asked to see the CO. She stated that she told the CO that the incident with the enlisted member was nonconsensual. She stated that the CO instructed her to write a statement, which she did, and told her that she would remain on shore. The applicant stated that on March 24 she was interviewed by CGIS and provided a statement as requested. She stated that she continued to receive counseling.

The applicant stated that on April 30 she was contacted and told to report to mast on May 3; however the mast actually occurred on May 5. The applicant stated that she was not provided with a copy of the investigative report until 2200 hours on May 4. She stated that she was afforded the assistance of a non-lawyer officer as her mast representative. The applicant claimed that her mast representative told her that she had to admit to the charge and that she should make a statement in extenuation and mitigation. The applicant stated that at the mast on May 5 she admitted to the charge as she had been directed to do by her mast representative. She stated she appealed the mast (the mast appeal and denial was addressed earlier).

The applicant stated that she served her restriction at ISC, New Orleans and received a favorable OER for her duty there as a special projects officer. She stated that at the time of the mast, her name was on the list for promotion to LT. Although CGPC recommended that her name be removed from that list, higher authority disapproved the recommendation, and she was promoted on her scheduled promotion date of May 17, 2004.

The applicant alleged that the mast and SOER should be removed because the proceedings underlying them were illegal and unjust. The applicant set forth several arguments

as to why the mast and SOER were illegal or unjust. First, the applicant stated that she was not the initiator of the encounter for which she was punished. She recognized that the enlisted member provided a statement that was contrary to hers, but she argued she was never afforded the opportunity to cross-examine him. She further argued that the alleged enlisted member's statement on which the CO relied was not a sworn one.

Second, the applicant asserted that her intoxication impaired her faculties and rendered her incapable of consenting to the sex act. She stated that she was wrong to permit herself to become inebriated, but she does not feel that that error on her part is tantamount to consent. She argued that the incident was an alcohol incident and should have been handled as such.

Third, the applicant alleged that her Article 31(b) rights were violated when the XO obtained a written statement from her without warning her and then the CO relied on the statement at mast. She argued that the Commander's claim that the remaining evidence is sufficient to sustain the non-judicial punishment is unsupported. She contended that her admission to the charge at mast was infected by the Article 31 violation and by the blatantly wrong advice her non-lawyer mast representative gave her concerning a legal matter. The applicant stated that there is no evidence in the record that her mast representative was aware of the Article 31(b) violation. She further contended that she was still in counseling during the mast and that the Board should consider whether her acknowledgment of guilt at the mast was a product of continuing emotional trauma.

Fourth, the applicant contended that the punishment imposed on her at mast was irregular. She alleged that a non-punitive letter is not a mast punishment and should not have been combined with a mast punishment. She argued that if the command believed that an administrative letter was warranted, it should not have imposed the restriction and the mast would not have become a matter of record.

She also argued that the CO's inflexible view that "in every case I have permanently removed the senior member from my command (an administrative action, not a punishment awarded at Mast) and given both parties a minimum of 30 days restriction and other punishments as appropriate to the case" was an abandonment of the quasi-judicial role Congress contemplated in codifying non-judicial punishment authority.

The applicant noted her excellent previous and subsequent performance and argued that "a giant-sized enlisted man who takes advantage of a pint-sized junior officer whom he knows to be impaired does not deserve to be the instrument by which that officer's career is destroyed."

The applicant submitted a statement from HSC G. He stated that when the applicant spoke to him on March 16 she was not emotional during their discussion but did become emotional in her discussion with the XO. HSC G stated that based on his observations of the applicant, he has found her to be an honest and truthful person.

The applicant also submitted a one page record of medical care in which she saw a doctor on March 22, 2004. The entry stated that the applicant was informed on March 21, that she would not be returning to the cutter. It stated that she tended to focus on what she thought was

wrong in how the command handled her situation. The entry stated that the applicant was encouraged to seek counseling to address family problems at her next assignment. A late entry dated March 29, 2004 stated that the applicant had been diagnosed with a “stressful work Schedule.”

The applicant also submitted a copy of a Behavioral Healthcare Service Initial Evaluation Questionnaire consisting of 12 pages dated March 18, 2004. The provider’s note on this document stated that the applicant reported that she drank too much and was taken advantage of sexually by an enlisted man. The applicant stated that she reported the incident to the XO as though she consented to the sexual encounter and did not remember telling the XO that she told the SN “I can’t do this” and pushed him away. The doctor’s portion contained a diagnosis of “stressful work schedule.”

### **VIEWS OF THE COAST GUARD**

On December 21, 2006, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny the applicant’s request based upon the memorandum from Commander, Coast Guard Personnel Command (CGPC). CGPC offered the following in pertinent part:

The [SOER] was submitted, validated and entered into the record in accordance with policy described in Chapter 10.A of the Personnel manual, COMDTISNT M1000.6A. . . . There is no error or injustice that requires relief concerning the [SOER].

Applicant took issue with an early draft of the OER; however, the rating chain worked with CGPC-opm-3 to ensure that the OER was prepared and processed in accordance with policy. . . . Only the validated OER, which included a two-page addendum prepared by the applicant, was entered into the record . . . . The applicant’s concern about a draft OER is a moot point.

Applicant is primarily requesting relief based on the assertion that the non-judicial punishment awarded, as documented in the OER, involved error and injustice. Applicant submitted an appeal of imposition of non-judicial punishment to the Commander, Coast Guard District Eight . . . . The appeal was denied; a detailed summary of proceedings addresses the District Commander’s position that there was “no basis to concluded that the mast proceedings conducted by Commanding Officer . . . . were either unjust or that the punishment imposed was disproportionate to the act of misconduct committed.”

The Coast Guard District Eight legal staff conducted a thorough review of the process and concluded that the non-judicial punishment imposed was neither unjust nor disproportionate. Therefore, the [SOER] accurately documents the non-judicial punishment awarded.

GCPC concluded his comments by stating that the applicant has not provided evidence that overcomes the presumption of regularity with respect to the construction or submission of the disputed OER.

*Rating Chain Statements obtained by the Coast Guard*

The Coast Guard obtained statements from the applicant's rating chain for the disputed SOER.

1. The reviewer stated that he conducted his responsibilities in accordance with the Personnel Manual. He stated that he discussed the matter with the applicant's CO and that it was his recollection that the CO believed that the applicant had engaged in a consensual sexual encounter with the enlisted member and only after having discussions with others and possibly recognizing the magnitude of her offense did she alter her account. The reviewer stated that he recalled that CGIS investigated the event and validated the CO's position.

2. The reporting officer who was also the CO offered the following pertinent comments:

In her declaration, [the applicant's] attorney claims that the enlisted crewmember led the officer to the locations of the encounter (flying bridge). However, in statements made to both CGIS investigators and to the ship's investigator [the applicant] claimed to have initiated the move to the flying bridge and gave her verbal concurrence for the enlisted member to accompany her.

The [applicant] did self report having engaged in an inappropriate encounter with a subordinate member of the crew. She later recanted her story and claimed that she was a victim of sexual assault, at which time CGIS professionals were called in to conduct a thorough investigation into the allegations. In short, their investigation revealed nothing to support those allegations and produced no signs of struggle (no bruises, abrasions, or tattered clothing despite the encounter having taken place on highly abrasive non-skid deck). Circumstantial evidence supported the earlier claim of a consensual encounter. Supported by the results of this professional investigation, UMCJ charges were preferred and NJP was scheduled for both parties.

In preparation for this mast, an onboard investigation was also conducted to ensure all appropriate documentation and evidence was obtained and available as required by [the MJM]. A Mast representative was coordinated for the officer. This representative was selected from the District 8 staff based on her professionalism and prior operational experience. [The applicant] expressed no reservations about her mast representative. There is no requirement for a mast representative to have legal training or certification.

Mast was conducted in full accordance with [the MJM]. The [applicant] was advised of her rights of appeal, which she exercised. The appeal was denied by the 8<sup>th</sup> District Commander following a thorough review and the findings of Mast,

as well as the prescribe punishment. The ensuing OER was in accordance with [the Personnel Manual].

I have had the privilege of commanding three operational cutters. The single largest burden of those commands, after the safety of my crews, was the weight associated with conducting NJP proceedings. I stand by my decisions I made in this officer's case. The evidence at hand pointed to a severe lapse in judgment and a breach in conduct. There were no signs of struggle or evidence of coercion. During questioning in the course of the CGIS investigation and at Mast the officer stated that at no time was she held against her will.

There is no doubt that this officer regrets the actions in question and that alcohol was a major causal factor. Regret, however, is not an adequate mitigation to absolve responsibility. Officers in our organization are held to the highest standard of conduct and judgment of any personnel. The removal of an officer from the chain of command of an operational cutter in the wake of such a breach of conduct is essential for the preservation of good order and discipline, as well as the assurance of safety for all onboard that serve in that chain. If an officer cannot be relied on to exercise appropriate judgment in the consumption of alcohol and in liaison with subordinate personnel, then they can no longer be relied on to fulfill their role in the chain of command.

3. The XO, who was the applicant's supervisor, wrote in a declaration under penalty of perjury that on March 16, the HSC came to see him and told him that the applicant needed to speak with him. The XO stated that he went to sickbay to see the applicant. He stated that the applicant told him that instead of him finding out from rumors that she wanted to self report that she had had a sexual encounter with an SN on the flying bridge. The XO further stated:

[The applicant] . . . went on to describe how she didn't enjoy her childhood, and that her father played the piano for her and that that was the only thing that she enjoyed as a little girl (it was quite strange). The conversation transitioned into her concerns for her sister's safety, as it related to the news on the custody hearing she had received the previous day. Her mental state alarmed me, so I left her ashore to see a psychologist and the chaplain. The ship sailed shortly after and the next time I saw her was roughly a week later when the ship returned from GITMO. She was waiting on the shore and asked to see the Captain. I obliged and went in with her where she stated to [the captain] that in retrospect she thought she was sexually assaulted and feared for rape. I immediately notified CGIS . . . and they arrived sometime after that to conduct their investigation. At that point I had sent [the applicant] back to Mobile, AL, while the ship completed our "in theater" deployment. Sometime later, the CGIS investigation was complete and their findings of the facts supported absolutely no claims of sexual assault or rape.

*Statement from Applicant's Mast Representative*

The Coast Guard also obtained a declaration from the applicant's mast representative. The mast representative stated that CGIS investigation addressed the issue of whether the enlisted member caused the applicant to engage in a sexual act by asking the applicant if she was ever restrained or threatened by the SN. The applicant's answer to this question was no. The mast representative further stated that:

I specifically remember [the applicant] telling me that they were discussing astronomy on the pier and that she was the one who recommended that they go up to the flying bridge to get a better look at the stars. This made sense to me as the Operation Officers onboard a 225' are also the navigators onboard and at that time were trained in celestial navigation. Throughout [her brief], it mentions that [the applicant] was inebriated. While the applicant was drinking, she was somehow able to make it up and down the vertical ladder leading to the flying bridge on a 225' buoy tender without incident.

The mast representative stated that she recommended that the applicant admit to the allegations. The mast representative stated that at that time, the applicant was not referring to what happened as 'assault' and the CGIS investigation did not indicate that the encounter was not consensual. The mast representative further stated:

While [the applicant] was very distraught that the incident had occurred, she did not deny that it happened nor did she state that she was forced into engaging in this sexual act. Therefore, I ultimately recommended that she admit to the allegations and then bring up her family problems and lack of good judgment due to inebriation during extenuation. A mast representative does not fill the role of a lawyer. My recommendation to admit the allegations was simply that, a recommendation. I made it perfectly clear to [the applicant] that it was ultimately her decision to admit or not admit the charges.

The mast representative stated that the applicant was upset and distraught on the night before and day of the mast. She stated however, that she did not consider this to be abnormal because many officers under similar circumstances have been kicked out of the Coast Guard. The mast representative also stated:

[The applicant] did not seem to understand why I was recommending that she admit the charges. On the other hand, I did not understand how she could deny that they happened when she had admitted to me on several occasions that they had in fact occurred and she did not state that they were assault. I also remember her being very upset after the outcome of the mast which also didn't make sense to me as I was very happy that she was still in the Coast Guard. The entire time that I spent with [the applicant] was very frustrating because she just didn't seem to understand my reasoning based on the facts of the case.

I did not find any problems with the mast proceedings and found the [CO] to be a very fair and understanding gentleman. He continually treated [the applicant] with respect throughout the proceedings and seemed genuinely disappointed in her when he rendered his decision.

### **APPLICANT'S REPLY TO THE VIEWS OF THE COAST GUARD**

On November 21, 2007, the Board received the applicant's response to the views of the Coast Guard. She disagreed with them and offered the supplemental CGIS statement of HSC G and her declaration under penalty of perjury as proof that she described the violent nature of the alleged assault when she first spoke to the HSC and XO about it. HSC G's follow-up statement to CGIS was as follows:

In addition to my provided statement: I recall [the applicant] showing me her elbow – once during our conversation the day she left [the cutter] & once approx[imately] a week later when she came back on the ship for a short period. Both times, I recall her showing me an elbow & briefly stating that she had [a] mark of some sort. Neither time did I pay such close attention that I noticed any type of marks. Her elbow appeared “normal” to me for the length of time I glanced at it.

On this point, the applicant's declaration is to the same effect. She argued that the command was so anxious to resolve the situation as quickly as possible that it did not take the time needed to pursue the proper course of action, which was to deal with it as an alcohol related situation. The applicant continued to assert that she was not afforded an adequate amount of time to prepare for the mast.

The applicant argued that the incident should have been handled as a alcohol related situation as her case was still pending when the revised COMDTINST 1754.10B issued on April 2, 2004. Article 7.f. of this regulation states:

If the consumption of alcohol by the victim is a factor in the assault, the consumption of alcohol will be handled as an alcohol related situation vice an alcohol incident for administrative purposes and the victim will be referred to screening and treatment. If the screening determines alcohol treatment is necessary, and the victim refuses or fails treatment, the use of alcohol will be considered an alcohol incident for administrative purposes.

### **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 concerning this matter pursuant to section 1552 of title 10 of the United States Code. The application was timely.

2. The applicant requested an oral hearing before the Board. The Chair, acting pursuant to 33 C.F.R. § 52.51, denied the request and recommended disposition of the case without a hearing. The Board concurs in that recommendation.

3. NJP (also known as captain's mast, mast, or non-judicial punishment) is provided by statute at Article 15 of the UCMJ. COs are responsible for maintaining good order and discipline within their commands and Article 15 provides them with the authority to impose punishment on members under their command without resort to court-martial. As such, after reviewing and weighing the evidence the CO alone finds whether a member committed a particular offense under the UCMJ. Article 1.D.1.f. of the MJM states in pertinent part that "[t]he burden of proof required in order to award punishment at NJP is a preponderance of the evidence;" and Article 1.D.15. states that "[I]f the [CO] determines, based on a preponderance of the evidence, that the member committed one or more offenses, the [CO] should announce, in layman's terms, what offenses the member committed."

4. On May 5, 2004, the applicant's CO punished her at mast for a violation of Article 92 (failure to obey a lawful order) of the UCMJ. Specifically, he found that the applicant failed to obey a lawful order in that on March 16, 2004 she violated the Coast Guard Interpersonal Relationship regulations (section 8H of the Personnel Manual) when she engaged in a sexual encounter with SN J on the flying bridge of the cutter to which she was assigned. The applicant appealed the NJP and her appeal was denied by the Commander, Eighth Coast Guard District on June 4, 2004. The Commander found that the mast punishment was neither unjust nor disproportionate to the misconduct committed.<sup>4</sup>

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<sup>4</sup> Under Article 1.F. of the MJM, a member punished under Article 15 may appeal if he or she considers the punishment imposed "unjust" or "disproportionate" to the acts of misconduct for which punished. Article 1.F.1.a.(1) defines "unjust" as illegality:

For example, the act of misconduct for which punishment was imposed was not a punishable offense under the UCMJ; the member was not subject to the jurisdiction of the commanding officer who imposed punishment; the commanding officer who imposed punishment was without power or authority to act in the member's case; or, the punishment exceeded legal limitation based upon the status of the member and/or the commanding officer who imposed the punishment. Similarly, the illegality may result from the denial of a substantial right of the member at any stage of the proceedings, e.g., investigation, preliminary inquiry, interrogation, or mast; or it may result from the failure to comply with procedural provisions applicable to the mast punishment; or it may result from a lack of sufficient evidence to establish that, more likely than not, the reported misconduct, the member's involvement in the misconduct, or both occurred.

Article 1.F.1.a.(2) states that "'disproportionate' indicates that although the punishment imposed was legal, it was excessive or too severe considering all of the circumstances, as, e.g., the nature of the misconduct involved; the absence of aggravating circumstances; the prior good record of the member; or, any other circumstances that tend to lessen the severity of the misconduct or explain it in a light more favorable to the member. Adverse administrative consequences of NJP such as delay in advancement or inability to reenlist are not punishments and are not a proper basis for NJP appeal."

5. The applicant argued that the mast was unjust because she was not the initiator of the encounter for which she was punished; that the enlisted member involved gave a statement of the events that was different from her own, but she was not allowed to cross-examine him on his statement; and that the enlisted member's statement was not a sworn one. The applicant has failed to prove that the CO's finding that she of her own volition left the fantail of the cutter and went to the flying bridge with the SN was in error or unjust. She alleged that the enlisted member led her back aboard the cutter and up to the flying bridge. However, she provided no corroborating evidence that she did not go up to the flying bridge of her own volition. As the CO stated in his comments on her appeal, he had before him the command's preliminary investigation, the CG 4910, witnesses' statements, and CGIS investigation, which the applicant had an opportunity to review. The CO noted that in statements to the ship's investigator, the applicant said that she initiated the move to the flying bridge. Further, the applicant's mast representative stated that the applicant admitted that she and the SN were discussing astronomy and that she herself recommended that they go up to the flying bridge to get a better look at the stars. Also, according to the CO and the applicant's mast representative, the CGIS investigation did not find any evidence that the applicant's participation in the encounter was nonconsensual or that she was coerced into it. The applicant has not proved that the CO was in error or treated her unjustly in finding that she initiated her encounter with the SN.

The applicant's complaint that she was not allowed to cross-examine the SN on his statement is without merit. The applicant admitted committing the offense at mast and therefore, it was not necessary for the CO to examine other witnesses. Article 1.D.7. of the MJM states that "[i]f the member admits committing the offenses, the [CO] does not need to examine witnesses or receive any additional evidence about the offenses." The applicant has presented no evidence that the SN testified at her mast. Nor has she presented any evidence that she asked to call him as a witness. The applicant was provided with all of the evidence to be considered at mast, presumably including the SN's statement. Therefore, she had an opportunity to rebut any statement that she thought to be inaccurate. The applicant has failed to prove that she was denied any right to cross-examine the SN.

The applicant also alleged that the SN's statement was not a sworn one. Under Article 1.D.1.g. of the MJM, the CO may consider a non-sworn statement and decide how much credibility to give such a statement. The applicant has presented no evidence that any regulation required the SN's statement to be sworn before it could be considered at mast. The CO, as fact finder, had the responsibility to weigh all of the evidence and must have been persuaded by the evidence that the applicant committed the misconduct since he punished her, not to mention the fact that she admitted to the offense at the mast. The applicant's complaint in this regard has no merit.

6. The applicant next alleged that because she was intoxicated at the time of the event, her faculties were impaired and rendered her incapable of consenting to the sex act. She argued that the matter should have been treated as an alcohol situation. In this regard, she argued that the April 2, 2004 revised Commandant Instruction on Reporting Rapes and Assaults states that "if consumption of alcohol by the victim was a factor in the assault, the alcohol consumption would be treated as an alcohol situation vice an alcohol incident for administrative purposes." The CO stated in the SOER and his recent statement that the applicant's alcohol consumption

was a significant causal factor in the incident. However, the applicant has submitted insufficient evidence to prove that her alcohol consumption rendered her incapable of consenting to the sexual encounter. HSC G indicated in the statement provided by the applicant that she was drinking on the night in question; however, he did not state that she was intoxicated; nor did he give the impression that the applicant's mental and physical faculties were impaired. The CO found that the applicant had been drinking alcoholic beverages on the evening of the incident, but drinking alcoholic beverages does not prove *per se* that the applicant was unable to consent.

Moreover, the applicant's assertion that her mental and physical faculties were so impaired due to intoxication that she was unable to consent to a sex act is inconsistent with the clarity in which she recalled allegedly expressing her verbal disapproval of the act, saying "No, I can't do this," feeling scared, attempting to halt the situation, and running away. At the mast, the CO was privy to the command and CGIS investigations and the applicant's admission, and he was satisfied that the applicant consented to the sex act. The applicant has failed to prove that the CO committed an error or injustice in finding that she "engaged in an inappropriate consensual sexual encounter with [the SN]."

The applicant's argument that the matter should have been treated as an alcohol situation under Article 7.f. of COMDTINST 1754.10B, revised on the April 2, 2004, is flawed. For this provision to apply to the applicant, she must be the victim of an assault. The applicant has not established by a preponderance of the evidence that she was the victim of an assault by the SN. CGIS investigated the applicant's assault allegation that was made approximately one week after first reporting that she had had a sexual encounter with the SN. CGIS found no evidence of a sexual assault; neither did the Commander, Eighth Coast Guard District. The applicant's delayed and unsupported allegation that she was the victim of an assault is insufficient to prove that the sexual encounter was not consensual.

7. The applicant also alleges in her brief without supporting evidence that the SN was not as intoxicated as she was and that he "caused" her to engage in the sex act. She does not explain what she means by "caused," but described the event thusly: "A giant-sized enlisted man takes advantage of a pint-sized junior officer whom he knows to be impaired." There is no evidence except the applicant's own late statement that the SN "caused" her to engage in a sex act with him. At her invitation, the applicant and the SN were the only two individuals on the flying bridge. After her subsequent allegation of assault, CGIS conducted an investigation, and according to the CO's statement obtained by the Coast Guard, found "nothing to support the applicant's allegations [of an assault] and produced no signs of a struggle (no bruises, abrasions, or tattered clothing despite the encounter having taken place on highly abrasive non-skid deck)." HSC G wrote in a statement to CGIS (provided by the applicant) that during their conversation of March 16 and a week later when she came back onboard the ship, the applicant showed him her elbow and stated that she had a mark of some sort. The HSC further stated that "neither time did I pay such close attention that I noticed any type of marks. Her elbow appeared 'normal' to me for the length of time I glanced at it." The HSC's statement does not persuade the Board that the applicant's encounter with the SN was non-consensual. Neither does the fact that she may have become emotional when talking with the XO after the HSC fetched him. The applicant could have become emotional for any number of reasons and, even if she did become

emotional when talking to the XO, it certainly would not prove that she did not consent to the sexual encounter with the SN.

8. The applicant has not proven that her Article 31(b) rights were violated when the XO obtained a written statement from her. The evidence of record is that the applicant went to see the HSC, who subsequently told the XO that the applicant needed to see him. The HSC brought the XO to the applicant. The applicant has presented no evidence that the HSC informed the XO of the subject matter for the meeting; nor has she shown that the XO at that point suspected the applicant of an offense. As the Commander told the applicant in denying her appeal, Article 31(b) warnings did not apply to her conversation with the XO because her statements at that time were spontaneous and voluntary. Analysis of the Military Rule of evidence 305 in Appendix 22 of the Manual for Courts-Martial states that spontaneous or volunteered statements do not require warnings under Rule 305 of the Military Rules of Evidence. The Commander noted that the XO did not seek the applicant out to ask questions about any suspected offense, and the applicant has not established that, at the time he spoke to her on March 16, he was even aware that she had had a sexual encounter with the SN. After the applicant made her oral statement to the XO, he asked the applicant to put it in writing. The applicant alleges that the CO improperly relied on this statement at mast. The Board finds that the applicant's statement to the XO did not violate Article 31(b) of the UCMJ. Even if an argument can be made that Article 31(b) warnings should have been given to the applicant before she put her oral statement in writing, the Board notes that the XO, who was present at the mast, could have testified that the applicant voluntarily orally admitted to him in a conversation on March 16, 2004 that she had had a sexual encounter with the SN.

The District Commander, in denying the applicant's appeal, further addressed her allegation that her Article 31(b) rights were violated. The Commander told the applicant that the rules of evidence do not apply at a mast. On this issue, Article 1.D.1.g. of the MJM states that "*judicial exclusionary rules involving rights warnings and search and seizure do not apply at a mast, and the [CO] may consider evidence that would be inadmissible at court-martial.*" (Emphasis added.) Article 31(d) of the UCMJ states "No statement obtained from any person in violation of the article, or through coercion, unlawful influence or unlawful inducement may be received in evidence against him *at trial by court-martial.* (Emphasis added.) Further contrary to the applicant's contention, the Commander did not state that there was a violation of her rights with respect to any statement she made to the XO on March 16. The Commander actually stated that an argument could be made that the applicant should have been given Article 31(b) rights during the CGIS investigation of her claim of a sexual assault. Even so, he noted that even without the applicant's statement in the CGIS investigation, there was sufficient evidence for the CO to find that the applicant had engaged in a consensual sexual act on board the cutter with the SN. In light of the above, the applicant has not shown that her Article 31 (b) rights were violated or that the CO was prohibited from using the information at mast even if such warnings were not properly given.

Moreover, the applicant has not proven that her admission at the mast was infected by her written statement to the XO. As the Commander stated in denying the applicant's mast appeal, her rights were given to her the night before the mast and read to her again at the mast. She had sufficient opportunity to change her statement prior to and at the mast. She did not have to admit

to the offense if she believed that she had not committed it. The applicant alleged that her mast representative gave her erroneous legal advice. Apparently, the applicant is referring to the fact that the mast representative recommended that she admit to the offenses. However, the decision of whether to admit or not admit to the offense rested with the applicant after discussing the matter with her mast representative. She certainly could have chosen not to admit to the offense at mast. To classify the mast representative's recommendation as legal advice is misleading. Mast representatives are not attorneys but rather officers and petty officers assigned by the command "to assist the member in preparing for and presenting his or her side of the matter and to speak for the member, if the member desires." See Article 1.C.3.c. of the MJM. The decision to admit to the offense was the applicant's, and she has not persuaded the Board that her mast representative coerced her into admitting to it.

The applicant also argued that her acknowledgement of guilt at the mast was the product of continuing emotional trauma. The problem with the applicant's argument here is that, except for her statement, she presented no evidence that she was suffering from continuing emotional trauma at the time of the mast. She submitted evidence that on March 22, 2004, she was advised to seek counseling to address family problems at her next assignment, but she submitted no medical reports to corroborate her allegation that on May 5, 2004 she was suffering from emotional trauma.

9. The applicant also argued that her punishment was irregular because the CO combined a non-punitive letter, which is not a mast punishment, with restriction, which is a mast punishment. However, the Board is not aware of any regulation that prohibits an NJP authority from awarding a non-punitive letter along with other punishment. As long as the CO honors the regulations with respect to a non-punitive letter, i.e. not placing it in the military record, the Board finds no problem with the punishment imposed by the CO. The applicant's record does not contain the non-punitive letter; nor is it mentioned in the SOER. Accordingly, no error or injustice exists in this regard.

10. The applicant also argued that the CO's position that "in every case I have permanently removed the senior member from my command . . . and given both parties a minimum of 30 days restriction and other punishments" was an abandonment of his quasi-judicial role. Again, the CO is responsible for maintaining good order and discipline within his command and his decision to remove the senior member for violations such as is under discussion in this case must be respected. In this regard, the CO stated that the applicant's actions on the night/morning of March 16, 2004, negatively impacted the chain of command, operational efficiency, and morale aboard the cutter. Additionally, the CO stated that it was command policy to permanently remove the senior member from the unit in situations involving inappropriate or prohibited relationships. Article 8.H.5.a. of the Personnel Manual states that "All personnel are responsible for avoiding unacceptable or prohibited relationships. Primary responsibility rests with the senior member."

11. In addition to her major arguments discussed above, the applicant again made the assertion that she was not allowed adequate time to review the documents to be considered at mast. She was given the documents the night before. However, the Board agrees with the CO that under the law and regulation, there is no set amount of time that must be given to the

applicant to review mast documents. Article 1.B.4.i. of the MJM only requires that the opportunity to review the documents be provided prior to or during the NJP hearing. In this case, the applicant received the documents the night before. Additionally, the CO stated the applicant did not complain about a lack of time to review documents at the mast, but only did so for the first time on appeal. The applicant has not shown any error in this regard.

12. Although the applicant argued in her mast appeal that she did not waive her right to consult with counsel, she did not make that argument in her brief to the Board. The Board notes that the Commander thoroughly discussed this issue in denying the applicant's appeal and the Board agrees with his determination.

13. The applicant has failed to prove that the CO committed an error or injustice when he punished her at mast on May 5, 2004. Therefore, there is no basis to remove the documents of the NJP or the SOER. Article 10.A.3.c.(1)(1) of the Personnel Manual required the submission of a special OER because of the NJP.

14. All of the applicant's contentions have been considered by the Board. Those allegations not specifically discussed in the Findings and Conclusions are considered not to be dispositive of this case.

16. Accordingly, the applicant's request should be denied.

**[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]**

**ORDER**

The application of LT XXXXXXXXXXXXX, USCG, for correction of her military record is denied.

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Philip B. Busch

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Adrian Sevier

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George A. Weller