

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 7-97

FINAL DECISION

█ Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on October 9, 1996, upon the BCMR's receipt of the applicant's request for correction of his military record.

The final decision, dated October 24, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Applicant's Request for Relief

The applicant enlisted in the Coast Guard for six years on August 21, 1972. On August 20, 1978, he was honorably discharged from the Coast Guard as a █; pay grade E-4).

On April 20, 1991, he asked the National Personnel Records Center (NPRC) for a copy of his "DD214 Honorable Discharge" from his military record "to obtain proof of Service &/or to establish time Served." He told the NPRC that his DD Form 214 was in a "car when stolen." In his application for correction, in the block calling for evidence, he said there was "No Evidence [his] Discharge Papers were stolen"

The applicant noted on his application that he was separated from the Service in September 1978. His application was received by the BCMR 18 years later, in October 1996. Under section 1552 of title 10, United States Code, an application must be filed within three years after the alleged error or injustice, unless the Board waives the time requirement in the interest of justice.

Views of the Coast Guard

The Coast Guard did not express any views as to the merits of this application.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction of the case pursuant to section 1552 of title 10, United States law.

2. An application for correction of a military record should be received by the Board within three years after the applicant discovered or should have discovered the alleged error or injustice, pursuant to section 1552(b) of title 10, United States Code.

3. The applicant did not file an application for correction until 18 years after he was discharged from the Coast Guard.

4. The application, accordingly, is untimely.

5. The applicant alleges that his DD Form 214 was stolen from his car (or stolen when his car containing it was stolen). He did not allege that the Coast Guard error or injustice has caused the theft, but he did say that he had no evidence to submit because his "Discharge Papers were stolen."

6. The Board examines all reasonable factors in assessing whether the interest of justice supports a waiver of the timeliness requirement. A waiver is not justified in this case because the applicant never met the legal requirements for an application.

7. Section 52.21(c) provides that "[n]o application shall be processed until it is complete. An application for relief is complete when the following have been received by the Board: (1) A . . . DD Form 149 . . . including a specified allegation of error or injustice, accompanied by substantial proof in support of such allegations"

8. The applicant did not submit to the BCMR any specified allegation of error or injustice on the part of the Coast Guard and no substantial proof in behalf of any such allegation. It is therefore not in the interest of justice to excuse the applicant's delay in submitting his application for correction.

9. Accordingly, the application is untimely and should be dismissed.

ORDER

The application for correction of the military record of
USCG, is denied.

If the Coast Guard can furnish the applicant with a duplicate DD Form 214,
the Board requests that it do so.

