

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-158

FINAL DECISION

Chairman:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The application for correction was received by the BCMR on July 27, 1999. The proceeding was docketed on May 1, 2000, when the application was complete following the BCMR's receipt of the applicant's military records.

This final decision, dated February 28, 2001, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant asked the Board to "Correct DD Form 214 to remove Aids to Navigation ANC-M school".

The applicant asked to have the following language on his DD Form 214 corrected:

14. Military Education . . . Aids to Navigation Major ANC-M School, 9 days, 91 Dec, Basic Minor Aids to Navigation Servicing, 91 Aug: Lister/Lima Diesel Maintenance 91 Dec . . ."

APPLICANT'S ALLEGATIONS

The applicant enlisted on August 15, 1988. He was honorably discharged on March 15, 1994, by reason of reduction in force with a JCC separation code and an RE-1 (eligible for reenlistment) reenlistment code.

The applicant alleged that "I didn't attend [Aids to Navigation] school." He asserted also that he was "not trained in this field." He did not, however, submit any proof of the accuracy of these allegations.

VIEWS OF THE COAST GUARD

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Untimeliness

On September 5, 2000, the Coast Guard Personnel Command (CGPC) recommended that relief not be granted to the applicant because the application is not timely. On November 21, 2000, the Chief Counsel of the Coast Guard recommended that relief be denied because of untimeliness.

The Chief Counsel stated that an application is untimely if it is filed more than three years of the date of the alleged error or injustice, unless it is in the interest of justice to decide the case on the merits. 10 U.S.C. § 1552(b), 33 CFR § 52.22. The date of discovery of the alleged error was March 15, 1994. The applicant filed his application approximately two years after the timeliness deadline.

Lack of Proof

The Chief Counsel said there was a lack of proof on the part of the applicant to the effect that he did not attend ANC-M school. The Chief Counsel stated that the applicant "failed to provide any corroborating evidence to substantiate his allegation that he did not attend the ANC-M school."

The Chief Counsel, on the other hand, provided proof that the applicant attended Aids to Navigation Major ANC-M school. A student roster for December 2, 1991 listed the applicant's name on a roster of students in National Aids to Navigation Lister/Lima Diesel Maintenance school (AMC-M). An Achievement Sheet showed that the applicant graduated on December 10 with a satisfactory score. CGPC concluded that the applicant attended Lister/Lima ANC-M School.

The Chief Counsel asserted that the Coast Guard "has provided proof that Applicant did in fact attend Aids to Navigation Major ANC-M school." "The evidence is overwhelming that he did in fact attend . . . this military training school."

FINDINGS AND CONCLUSIONS

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

1. The BCMR has jurisdiction of the case pursuant to section 1552 of title 10, United States Code. The application was not timely.
2. Applications for correction are required, under section 1552(b) of title 10,

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U.S. Code and section 54.22 of title 33, Code of Federal Regulations, to be submitted within three years after the alleged error or injustice is discovered or reasonably should have been discovered. The limitation can be waived "in the interest of justice."

3. The applicant was discharged from the Coast Guard on March 15, 1994. On the application for correction that he filed with the BCMR on July 22, 1999, he said that his date of discovery of the alleged error was "3-15-94". The application was filed on July 22, 1999, a date which was approximately two years and four months after the limitations deadline.

4. It is in the interest of justice to decide this case on the merits because the period of delay was short.

5. The Chief Counsel submitted substantial proof that the applicant enrolled in and graduated from the ANC-M School. The applicant has the burden of producing proof of the alleged errors or injustices.

6. The applicant did not prove that the Coast Guard had committed any error or injustice.

7. Accordingly, the application should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of [REDACTED] correction of
his military record is denied. [REDACTED]
