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CE No. 2
CR No. 2

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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-044

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 proceeding was docketed on November 17, 1998, upon the BCMR's receipt of the applicant's completed application.

The final decision dated September 21, 2000, 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 "upgrade [his] discharge from General to Honorable."

SUMMARY OF MILITARY RECORD

The applicant enlisted in the Coast Guard on August 6, 1956.

On August 5, 1960, he was discharged from the Coast Guard under honorable conditions. His discharge Form DD-214 indicated that he was not recommended for reenlistment, and it indicated that he was discharged as a seaman apprentice (SA), after being reduced in rank from the grade of seaman.

On August 5, 1960, the following entry was made in the applicant's military record: "He has been a chronic disciplinary problem during his current enlistment . . . [H]e also has a mental deficiency which . . . certainly has been detrimental to his performance of duty."

While on active duty in the Coast Guard, the applicant was brought before captain's masts for disciplinary violations approximately 14 times, for violations of one or more provisions of the Uniform Code of Military Justice, as follows:

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Code Violation	Date of Mast
Article 86	6/9/60
Articles 92, 134	5/6/60
Articles 86, 112, 134	4/4/60
Article 134	3/23/60
Article 92	2/4/60
Absent from Liberty	1/11/60
Article 92	12/10/59
Article 92	10/14/59
Article 134	2/3/59
Article 134	12/1/58
Article 86	6/27/58
Article 92	2/26/58
Ships General Order No 1-54	10/23/57
Article 15	3/13/57

VIEWS OF THE COAST GUARD

On June 16, 2000, the Chief Counsel of the Coast Guard submitted an advisory opinion recommending that the Board deny the applicant's request for relief for untimeliness and for lack of proof.

The application was untimely because it was filed in 1998, 38 years after the applicant's discharge from the Coast Guard, in 1960. To be timely, an application must be filed at least three years from the date a Coast Guard error or injustice was discovered or should have been discovered.

The application fails for lack of proof because the "Applicant does not allege error or injustice by the Coast Guard The record is devoid of either procedural or substantive error committed by the Coast Guard, and the characterization of his discharge does not rise to the level of injustice as it has been defined in this setting."

RESPONSE TO COAST GUARD VIEWS

On June 16, 2000, a copy of the views of the Coast Guard was sent to the applicant, at the address listed on his application for correction, along with an invitation to him to submit a response to those views.

On June 26, 2000, the applicant submitted a response in which he stated the

— following, in part:

As I have stated, there is no unjust movement on the Coast Guard, and I cannot state anything they say [is] wrong . . . However I thought they would be more forgiving in this matter. . . .

I don't see what harm it would do for them to grant my request because even with an Honorable discharge I could never reenlist – I am nearly 61 years old.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction to determine the issues in this proceeding under section 1552 of title 10, United States Code.
2. The application was not filed timely. To be timely, an application must be filed within three years after an alleged error or injustice was discovered or should have been discovered. The application in the present case was filed within 38 years after the applicant was discharged.
3. The applicant did not allege or show that the Coast Guard committed any error or injustice.
4. Accordingly, the application should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

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Final Decision: BCMR 1999-044

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ORDER

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

