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DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-113

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. It was commenced on May 6, 1999, upon the Board's receipt of the applicant's request for correction of his military record.

This final decision, dated April 13, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant was discharged from the Coast Guard on June 5, 1992 for poor performance and found ineligible for reenlistment. He asked the Board to change the separation designator from JHJ (unsatisfactory performance) to JNG (convenience of the government) and to change the reenlistment code from RE-4 (not recommended for reenlistment) to RE-1 (recommended for reenlistment).

The applicant attached to his application a packet of materials, including a copy of a statement by a petty officer, an evaluation of his performance by a Coast Guard lieutenant, and a copy of an unsigned letter to Members of Congress. The petty officer said the applicant received "unfair and unjust marks" and was not "marked appropriately". The lieutenant stated that the applicant's "initiative, insight, and dedication . . . significantly contributed to this unit's high level of readiness." The Members of Congress were told that "office politics" was the reason the applicant was separated from the Coast Guard for "unsatisfactory performance."

VIEWS OF THE COAST GUARD

On November 23, 1999, the head of the Coast Guard Personnel Command (CGPC) recommended that no relief be granted to the applicant. CGPC summarized the applicant's poor performance between January 1990 and June 1992, which included non-judicial punishment, numerous entries documenting counseling sessions, and three entries terminating eligibility for the Coast Guard Good Conduct Award).

The Discharge Review Board (DRB) also recommended that relief be denied. On February 28, 1997, the Commandant approved the recommendation of the DRB.

On February 23, 2000, the Chief Counsel of the Coast Guard also recommended denial of relief. The Chief Counsel said the record does not support the applicant's allegations of error and injustice. In fact, the applicant's record is filled with documentation of his unsatisfactory performance. The Chief Counsel declared that the Board should affirm the DRB's decision by concluding that the Coast Guard "had a reasonable basis to discharge Applicant" and that this basis was neither arbitrary nor capricious. The Chief Counsel also found that the applicant's command had sufficient cause to discharge him involuntarily for unsatisfactory performance. The applicable provisions of Article 12.B.9 of the CGPERSMAN (Coast Guard Personnel Manual), relating to unsatisfactory performers, have been followed.

On September 26, 1991, the applicant was counseled on his poor performance of duty and below average marks and was given a deadline of December 1, 1991, to improve his performance or be placed on probation. The probation deadline was repeated on November 18, 1991. On March 3, 1992, the applicant was placed on a six-month probationary status and notified that he would be processed for discharge if his performance did not improve. On June 5, 1992, he was discharged due to unsatisfactory performance.

RESPONSE OF THE APPLICANT TO COAST GUARD VIEWS

On February 24, 2000, the Board sent the applicant a copy of the views of the Coast Guard on this case and notified the applicant that he could submit a response to these views within 15 days of the date of notification,

No response was received from the applicant.

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 concerning this matter pursuant to section 1552 of title 10, United States Code.

2. The application was not timely. It was filed in May 1999, approximately seven years after the applicant was discharged from the Coast Guard.

3. In 1992, the United States District Court for the District of Columbia held that the Board should conduct a "cursory review" of the merits of an untimely application as part of its examination as to whether it was in the "interest of justice" to waive the untimeliness and decide the application on the merits.

4. Cursory review of the merits of this application indicates that the applicant's record is replete with evidence of the applicant's poor performance during his limited period of Coast Guard service. The evidence thus indicates that his military superiors had a reasonable basis to discharge him involuntarily for unsatisfactory performance.

5. The applicant has not persuaded the Board that there was any error or injustice in his record.

6. Accordingly, the application should be denied because of untimeliness and lack of merit.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of former
is denied.

