


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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-175


Seaman (former)

FINAL DECISION

This proceeding is conducted according to the provisions of 10 U.S.C. § 1552. The Chair docketed the case after receiving the completed application on August 28, 2024, and assigned it to an attorney to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision dated April 24, 2025, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant is requesting that his DD214 reason for discharge be changed from "unsuitability" to "medical" to account for his alcohol addiction that the applicant struggled with during service. The applicant alleges he developed an alcohol addiction while enlisted and each alcohol incident he received while serving was not treated as a medical concern as it would be today. The applicant states he was not offered an opportunity to get better and was discharged from service with his "sickness" of alcohol addiction. The applicant is now attempting to purchase a home using a VA loan but has been denied because of the reasoning for discharge being listed as unsuitability. For these reasons, the applicant requests an upgrade to his reason for discharge.

SUMMARY OF THE RECORD

On June 8, 1992, the applicant received a negative page 7 for a recorded alcohol incident involving an assault occurring while the applicant was intoxicated on liberty. When his liberty expired, the applicant was unable to perform his duties for roughly twelve (12) hours until he became sober. The applicant was counseled regarding the alcohol incident.

On March 12, 1993, the applicant received a negative page 7 for consuming alcohol in the barracks as a minor. This was treated as a second alcohol incident and the applicant was scheduled to be screened at the Navy Counseling and Assistance Center. The applicant was informed he was being processed for separation due to continued alcohol use creating unsuitability to the service.

On March 15, 1993, the applicant was screened by the Navy Counseling and Assistance Center and determined to meet the criteria for alcohol dependency. Specifically, the medical record

reads; “This examinee [the applicant] has no disqualifying mental or physical defects which are ratable as a disability under the Veterans Administration Schedule for rating disabilities. This patient [the applicant] is able to distinguish from right and wrong and is mentally responsible for his actions.” The applicant was encouraged to attend Level III, inpatient treatment program, however the applicant declined treatment due to his desire to move forward with separation from the Coast Guard. The applicant was advised in writing that declining inpatient treatment prior to discharge may disqualify you for inpatient alcohol treatment by the Department of Veterans Affairs in the future. The applicant signed the administrative remarks acknowledging his understanding of his decision.

On March 17, 1993, the applicant submitted a signed memo acknowledging the request for his discharge. He did not desire to make a statement on his own behalf, and he declined to consult with legal counsel.

On April 28, 1993, the applicant was discharged from active duty by reason of unsuitability in accordance with Article 12-B-16, COMDTINST M1000.6A.

VIEWS OF THE COAST GUARD

On February 14, 2025, a Judge Advocate (JA) for the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Coast Guard Personnel Service Center (PSC).

The JA concurred with the PSC evaluation of the applicant’s request for change to his DD214 was not supported by the applicant’s assertions of not being treated as a medical condition for alcohol dependency. PSC acknowledged the applicant received an opportunity for alcohol treatment prior to separation and the applicant denied treatment. The Coast Guard acted within its regulations and policies regarding the discharge of the applicant. The JA recommends the Board deny relief.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 25, 2025, the Chair sent the applicant a copy of the Coast Guard’s views and invited him to respond within thirty (30) days. The applicant has not responded as of the date of this decision.

APPLICABLE LAW AND POLICY

The Board may correct errors or remove injustices in a service member’s records pursuant to 10 U.S.C. § 1552(a).

- (1) Error can be defined as either legal and/or factual.

- (2) Injustice, when not also error, is treatment by the military authorities that “shocks the sense of justice.”¹ In addition, the Board has the authority to decide whether an injustice exists in an applicant’s record on a case-by-case basis. The application must file within three years after discovery or reasonably should have discovered the alleged error or injustice for a correction or relief.²

33 C.F.R. § 52.24 (a)

Burden of Proof: “It is the responsibility of the Applicant to procure and submit with his or her application such evidence, including official records, as the Applicant desires to present in support of his or her case.”

33 C.F.R. § 52.24 (b)

Presumption of Regularity: “The Board begins its consideration of each case presuming administrative regularity on the part of the Coast Guard and other Government officials. The Applicant has the burden of proving the existence of an error or injustice by the preponderance of the evidence.”

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant’s military record and submissions, the Coast Guard’s submissions, and applicable law and policy:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

2. The applicant brings this request beyond the required three (3) years of its occurrence making the application untimely for review. However, the Board may review a case in the pursuit of justice.

3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so. In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without “analyz[ing] both the reasons for the delay and the potential merits of the claim based on a cursory review” to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that “the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review.”

¹ *Sawyer v. United States*, 18 Cl. Ct. 860, 868 (1989), citing *Reale v. United States*, 208 Ct. Cl. 1010, 1011, cert. denied, 429 U.S. 854, 97 S. Ct. 148, 50 L. Ed. 2d 129 (1976).

² 33 C.F.R. § 52.22.

4. The Board first turns to the reasons for delay. The applicant claims to have applied for a VA mortgage recently and discovered that his discharge disqualified him from obtaining such a loan. However, this explanation does not address or explain the discovery of the alleged error in his discharge; it relates only to discovery of a collateral effect of his discharge. The Board finds that the applicant does not offer a sufficient justification to explain the 30-year delay in his application.

5. The Board next turns to the merits of the applicant's claim. After a cursory review of the facts and related policy, we find the applicant's discharge to have occurred without error or injustice. The applicant is requesting changes to his DD214 because he was denied a VA home loan. His reason for discharge reads unsuitability and the applicant claims that now the Coast Guard would list this discharge type as a medical discharge. However, this assertion is not supported by Coast Guard policy. For an alcohol incident, a Coast Guard member is still subject to a discharge for unsuitability.³ While the applicant appears to also base his request on clemency grounds, he provides no evidence to support a request on that basis.

6. Liberal consideration doesn't apply to this application. Applicant was determined during service to be medically fit despite his alcohol abuse. He was offered a treatment opportunity prior to his discharge and the applicant declined. There is not an established service-related incident that created his alcohol abuse but a personal choice to participate in underage drinking on a regular basis. For liberal consideration to apply the applicant would require a service-related injury to be the contributing factor for the substance abuse. Merely being a member of a military service and consuming alcohol is not a significant service-related event.⁴ The applicant, of sound mind by medical opinion, made informed choices to participate in underage drinking which resulted in the applicant's discharge for unsuitability.

7. The Board, in full view of all facts, assertions, and applicable laws, views this case as incomplete and lacking error or injustice. Therefore, we will not excuse the applicant's failure to timely file his application. His request for relief is denied.

[ORDER AND SIGNATURES ON NEXT PAGE]

³ Military Separations (2024) COMDTINST 1000.4B Chapter 2 Section O.2. Causes for Discharge for Unsuitability. The purpose of discharges for unsuitability is to free the Service of members considered unsuitable for further service because of: e. Alcohol Substance Use Disorder (SUD).

⁴ By law, liberal consideration only applies to requests for review of discharges or dismissals resulting from post-traumatic stress disorder (PTSD) or traumatic brain injuries (TBI) related to combat or military sexual trauma. 10 U.S.C. § 1552(h); see also 10 U.S.C. § 1554b(b) (requiring boards of correction to give due consideration to the "psychological and physical aspects of the individuals experience in connection with the sex-related offense; and to determine what bearing such experience may have had on the circumstances" of their discharge). Liberal consideration does not apply in other cases of alleged PTSD, TBI, or mental/physical health problems.

ORDER

The application of former SN [REDACTED], USCG, for correction of his military record is denied.

April 24, 2025

