


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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2025-059


BM2/E-5 (former)

FINAL DECISION

This proceeding was conducted by the Board for Correction of Military Records of the Coast Guard (“Board”) according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. After receiving the completed application, the Chair docketed the case on March 5, 2025, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated March 20, 2026, 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, a former BM-2/E-5 discharged on June 6, 2001, applied to the Board for relief on August 1, 2024. He asks the Board to upgrade his characterization of service from under Other Than Honorable Conditions (OTH) to Honorable. Applicant states that he has “learned from some of the mistakes” he made in the Coast Guard, and has “grown as a person.” He further states that he has been married to his wife for 27 years and had two daughters with her after his discharge from the Coast Guard and has “lived a great life.” He also highlights his 23 year career as a firefighter, rising to rank of Captain. Applicant claims that “there is still that part of [him] that would like to feel like [his] time in the Coast Guard meant something”

SUMMARY OF THE RECORD

The applicant originally enlisted in the Coast Guard on February 14, 1995.

The applicant was charged with violation of ten Specifications of Articles 92, 93, 107, 125, 128 and 134, UCMJ, on December 20, 2000. While investigative documents are not within the applicant's service record, the specifications describe sexual harassment of numerous female crew members on his ship, maltreatment of subordinates, sodomy, assault, and adultery. These alleged offenses occurred on multiple occasions between January 1998 and October 1999, with an additional allegation of making a false official statement in August 2000.

Charges against the applicant were referred to a special court-martial on February 21, 2001. On April 6, 2001, the applicant requested "a discharge under other than honorable conditions for the good of the Service in lieu of trial by court-martial under circumstances that could lead to a bad conduct or dishonorable discharge." He made this request after conferring with counsel, and accompanied it with a statement that read, in part:

The particular incidents that have resulted in charges against me happened over 2 years ago during a difficult time in my life (my wife and I were separated). Since then, I have come along [sic] way with my career, and my wife and I have been through counseling and have re-established a good marriage. . . . I apologize for any hurt I may have caused to any persons to include the Coast Guard. During my 6 years in the military, I have done my best to live up to the standards the Coast Guard required and regret the short period of time in my career that I allowed outside personal stress to effect [sic] my good judgment

The applicant's request was accepted and he was discharged with an OTH characterization of service on June 6, 2001.

On January 18, 2002, the applicant applied to the Coast Guard Discharge Review Board (DRB) for an upgrade of his discharge to General (Honorable Conditions). In support of his DRB application, he stated the following:

Issues: During the investigation of my charges there were 5 other people being investigated also. All were let off with negative page 7's except for me. My investigation/ case lasted over a year before they decided to discharge me. There were a lot of problems at my station and there still are today, but I felt like I was the one that got picked to make an example of. Some of the charges brought against me were absolutely false. Before I had gone out and got a personal lawyer they wanted to go to court martial. After my lawyer talked to them they all of a sudden agreed to the discharge I received, after they first said that they wouldn't do it.

The DRB denied the applicant's request for upgrade, which was approved by the Commandant on July 18, 2003.

The applicant provided a number of documents related to his service as a firefighter for more than 20 years following his discharge from the Coast Guard. These included 14 pages of certificates of training, certification, and promotion, as well as a two-page "Character Letter in Support of Discharge Upgrade" provided by a retired Coast

Guardsmen and fellow firefighter who worked with the applicant in the years following his discharge.

VIEWS OF THE COAST GUARD

On December 19, 2025, a Coast Guard Judge Advocate (JA) submitted an advisory opinion (AO) in which he recommended the Chair administratively close the case. In the alternative, he recommended that the Board deny relief. In the AO, the JA adopted the analysis of the Coast Guard Personnel Service Center contained in an attached memorandum, with some amendments.

The JA argued that the applicant had failed to allege specific instances of error or injustice accompanied by substantial evidence, which is a requirement for complete applications to the Board in 33 C.F.R. § 52.21. Therefore, the application was improperly docketed and should be administratively closed.

In the alternative, the JA argued that the application should be denied because the applicant did not provide any evidence showing that his discharge was erroneous or unjust. He argued that evidence of post-service conduct is not relevant to a request for discharge upgrade.

APPLICANT'S REPLY TO THE VIEWS OF THE COAST GUARD

The applicant was provided with the views of the Coast Guard on February 11, 2026 and given 30 days to submit a response. As of the date of the Board's proceedings, no response has been received.

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). "Error" means a mistake of a significant fact or law and includes a violation by the Coast Guard of its own regulations. *See Reale v. United States*, 208 Ct. Cl. 1010, 1011 (1976) ("Error" means legal or factual error.); *Ft. Stewart Schools v. Federal Labor Relations Authority*, 495 U.S. 641, 654 (1990) ("It is a familiar rule of administrative law that an agency must abide by its own regulations."). Injustice, when not also error, is treatment by the military authorities that "shocks the sense of justice." *Sawyer v. United States*, 18 Cl. Ct. 860, 868 (1989) (citing *Reale v. United States*, 529 F.2d 533 (Table) (Ct. Cl. 1976)), *rev'd on other grounds*, 930 F.2d 1577 (Fed. Cir. 1991). The Board

has authority to determine whether an injustice exists on a “case-by-case basis.” Docket No. 2002-040 (DOT BCMR, Decision of the Deputy General Counsel, Dec. 4, 2002).

“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(a). “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.” 33 C.F.R. § 52.24(b). Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.” *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction over this matter under 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. An application is untimely if not submitted to the Board within three years after the applicant discovered the alleged error or injustice underlying the application, but the Board may excuse untimeliness if it is in the interests of justice to do so.¹ In this case, the applicant was aware of his characterization of service upon his discharge on June 6, 2001. On January 18, 2002, applicant applied to the DRB to upgrade his discharge to General (Honorable Conditions). The DRB denied his application in a memorandum dated July 23, 2003. He made application to the Board on August 1, 2024. The DRB’s denial of relief exhausted the applicant’s effective administrative remedies and conferred jurisdiction on this Board. However, he waited 21 years before making his application in this case. Applicant asserts no basis to consider a later date of discovery of this alleged error or injustice. His application is therefore untimely.

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, 164 (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”

¹ 10 U.S.C. § 1552(b); 33 C.F.R. § 52.22.

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.” *Id.*

4. The Board first turns to the reasons for delay. The applicant offers no explanation or justification as to why he waited more than 20 years to apply, or why the Board should excuse his untimeliness. He also offers no basis for this Board to consider why his discharge under other than honorable conditions was erroneous or unjust. He claims to have worked through whatever problems led to his discharge, repaired his marriage, and “lived a great life” while advancing through the ranks to become a Captain in his local fire department. He asks the Board to upgrade his discharge because he wants his time in the Coast Guard to have “meant something.” As none of these claims form a basis to determine error or injustice, the evidence related to his post-service conduct does not affect the date of discovery or provide justification for the delay.

5. The Board next turns to whether, upon a cursory review, the potential merits of the claim justify excusal of the applicant’s untimeliness. In this case, the applicant has not asserted any claim that his discharge was erroneous or unjust. In addition, the record contains no evidence to support such a claim.

a. The Board will not speculate about the potential outcome of the court-martial that ultimately did not occur. The applicant does not deny committing any of the offenses he was charged with. Indeed, his discharge did not require that he be found guilty of an offense by any legal standard.

b. The applicant requested discharge under other than honorable conditions to avoid facing criminal charges at court-martial. Through this process, the applicant was represented by counsel and advised of his rights. He was charged with ten Specifications in violation of Articles 92, 93, 107, 125, 128 and 134, UCMJ. These Specifications included sexual harassment and misconduct with five women who were his shipmates, some of whom being his subordinates. In particular, he had sexual intercourse with three junior Coast Guardsmen while a married man. This misconduct occurred on multiple occasions over a period of more than eighteen months.

c. At the time of his discharge, the applicant describes his significant misconduct as simply a “short period of time in [his] career that [he] allowed outside personal stress to effect [sic] [his] good judgment.” He did not apologize or show contrition for his crimes, beyond apologizing for “any hurt I may have caused to any persons to include the Coast Guard.” In his application to the DRB immediately following his discharge, he claims that “[s]ome of the charges made against [him] were absolutely false,” and that he was “picked to make an example of” from a Coast Guard station with lots of problems. However, he provided no evidence at that time, or in his present application to the Board, that his characterization of service was erroneous or unjust.

6. For the reasons outlined above, the applicant's request for relief is denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former BM2 [REDACTED], USCG, is denied.

March 20, 2026

