

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-074


SR (former)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552. The Chair docketed the case after receiving the completed application on May 15, 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 July 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 a former SR (E-1) and was separated for misconduct with a General (Honorable Conditions) discharge on June 14, 2002, after serving seven (7) months and four (4) days of active duty. The applicant alleges that her sexuality was investigated and that she was disciplined during active "9/11 duty" and being treated by a "Newport Navy Psych." She claims to have been harassed regularly and had lifelong mental health issues as a result. She asks that her record be corrected to restore her rank to SA, removed "all negative comments and codes" and restore all awards, and pay that was suspended.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on November 11, 2001.

After reporting to the USCGC Monomoy in Woods Hole, MA, the applicant received a total of six negative administrative remarks (CG-3307) in her record for disciplinary issues from February 27, 2002 to June 7, 2002. These administrative remarks documented various performance and discipline concerns, including lack of cleanliness in her barracks room, lack of attention to detail, failure to report to scheduled medical appointments, absence without leave, possession of alcohol in the barracks when underage, and placement on a probationary period as a result of discreditable involvement with military authorities.

The applicant was punished through Article 15 proceedings on June 4, 2002, although the record does not indicate what punishment was adjudged.¹ However, adjudged punishment that was suspended appears to have been implemented through a vacation of the suspension on June 7, 2002, when she was also informed in a CG-3307 that she would be processed for separation due to misconduct. It appears that she was reduced in grade at that time from SA (E-2) to SR (E-1).

The applicant was separated for misconduct with a General (Honorable Conditions) Discharge on June 14, 2002.

VIEWS OF THE COAST GUARD

On January 7, 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 on October 22, 2024, prepared by the Coast Guard Personnel Service Center (PSC).

The JA concurred with the PSC evaluation of the applicant's request. PSC noted that the application was untimely, as the applicant did not request relief until nearly 22 years after her discharge. The PSC argued that the applicant failed to show any error or injustice in her record, and provided no evidence to support her allegation that she had been investigated due to her sexuality or harassed. The applicant's record also provided no documentation or evidence to support the applicant's allegations.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 24, 2025, the Chair sent the applicant a copy of the Coast Guard's views and invited her to respond within thirty (30) days. As of the date of this Board hearing, no response has been received from the applicant.

APPLICABLE LAW AND POLICY

1. 33 C.F.R. § 52.21(c) sets forth the requirements for docketing and processing applications to the Board. In particular, applications are complete when they include a "specific allegation of error or injustice, accompanied by substantial evidence or information in support of such allegation." 33 C.F.R. § 52.21(c)(1).
2. 33 C.F.R. § 52.22 sets forth timeliness requirements for applications to this Board:

An application for correction of a record must be filed within three years after the Applicant discovered or reasonably should have discovered the alleged error or injustice. If an application is untimely, the applicant shall set forth reasons in the application why it is in the interest of justice for the Board to consider the application. An untimely application shall be denied

¹ The record before the Board does not contain documentation of the applicant's nonjudicial punishment proceedings or administrative separation. These are referenced in the CG-3307s in the record, but the underlying documents could have been lost to time or may only be available in archived records no longer in the Coast Guard's possession. Despite the Board's attempts, we were unable to obtain the applicant's archived military records.

unless the Board finds that sufficient evidence has been presented to warrant a finding that it would be in the interest of justice to excuse the failure to file timely.

3. Coast Guard Personnel Manual (COMDTINST M1000.6A) Chapter 12.B.2.f defined the standards for discharge applicable to the applicant in 2002. It identifies misconduct as a permissible basis for the issuance of a General (Honorable Conditions) Discharge.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's 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 her Coast Guard military record. The Board finds that the applicant has exhausted 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 to the Board must be filed within three years after the applicant discovers the alleged error or injustice. The applicant received her discharge on June 14, 2002, but did not make application to the Board until May 15, 2024. She does not allege that she did not know of or could not learn of the alleged error or injustice sooner. She claims that "discharge upgrade was unavailable for years," but without further explanation. As a result, the Board finds that this application is 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 (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"⁴ 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."⁵

4. The Board first turns to the reasons for delay. The applicant does not provide a direct explanation as to why she waited nearly 22 years to make application to this Board for relief. She claims that "discharge upgrade was unavailable for years," but that assertion appears to have no basis in fact or law. While this may be a reference to the now-repealed "Don't Ask, Don't Tell" (DADT) policy, the Board notes that this policy repeal is inapplicable to the applicant's case. Consistent with the DoD services, this Board has corrected the records of former members who were discharged due to homosexual status or conduct through DADT or earlier policies which prohibited homosexuals from serving – openly or otherwise – in the military. However, the applicant's record makes no reference to her sexuality, and her discharge was for misconduct that had no relation to homosexual acts or status. Moreover, even if the applicant was awaiting a legal or policy change to DADT to submit her application (which occurred in 2010), she still inexplicably waited nearly 15 years to do so.

5. The Board next turns to the potential merits of the applicant's claims. The applicant presents no evidence to support her allegations of error and injustice. Furthermore, the portion of the military record available for the Board to review clearly supports the command's decision to separate the applicant for misconduct with a General discharge. During her brief seven-month Coast Guard career, the applicant was formally counseled by her command for numerous performance and discipline issues on six occasions, and received nonjudicial punishment. The record before us may be missing some documents that would have been produced and available 23 years ago, such as separation/discharge paperwork and records of nonjudicial punishment proceedings. However, the disappearance of or difficulty in obtaining records due to the passage of time does not accrue to the applicant's advantage, especially when she provides no justification for her delay.

6. A cursory review of the applicant's application and the record shows that she had well-documented discipline and conduct issues during her short Coast Guard career. She claims the Coast Guard's actions in punishing and discharging her were the result of harassment and targeting her sexuality, but she provides no evidence to support this claim. The Board notes that the applicant does not even allege that the CG-3307s in her file were erroneous. The burden is on the applicant to support her claims of error and injustice with substantial evidence, and she has failed to do so. There were no apparent errors in the discharge process, and the characterization of service the applicant received was consistent with Coast Guard policy at the time.

7. The Board finds that the interests of justice do not require the excusal of the applicant's failure to file within three years of discovery of the alleged error or injustice. For this reason, relief is denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of SA (former) [REDACTED] USCG, for an upgrade of her characterization of service from General (Honorable Conditions) discharge, to Honorable, and for removal of all negative comments and codes, restoration of all awards, and pay, is denied.

July 24, 2025

