

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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1997-152

FINAL DECISION

████████ Chairman:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was commenced on July 18, 1997, upon the Board's receipt of the applicant's request for correction of his military record.

This final decision, dated July 19, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

REQUEST FOR RELIEF

The applicant alleged that he was discharged under honorable conditions (general discharge) from the Coast Guard (CG) at pay grade E-3 on December 6, 1989. He further alleged that line 13 (decorations, medals etc.) of his discharge document should have read "CG Pistol Marksmanship Ribbon (Expert)" to reflect the fact that he received "a medal out of boot camp (engraved with P.P. 122) and [was] qualified all (4) yrs. Expert."

SUMMARY OF RECORD AND SUBMISSIONS

The applicant submitted a DD Form 149 (application for record correction) eight and one-half years after he was discharged from the Coast Guard. He alleged that he discovered the alleged error or injustice on "89-12-30" a date which was two weeks after he was discharged.

The applicant alleged that he had received a medal for pistol marksmanship from the Coast Guard, but he did not send that medal or a photograph or xerox copy of it to the Board.

The Board did not receive "substantial proof" in support of the applicant's

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allegation that he received a pistol marksmanship ribbon which should have been noted on "Line 13."

The Board never received the military records of the applicant.

APPLICABLE STATUTE AND REGULATION

10 U.S.C. 1552

(a) . . . Under procedures prescribed by him, the Secretary of Transportation may in the same manner correct any military record of the Coast Guard . . .

(b) No correction may be made under subsection (a) unless the claimant . . . files a request therefor . . . within three years after he discovers the error or injustice, whichever is later. However, a board . . . may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

33 CFR 52.21(c)

No application shall be processed until it is complete. [To be complete an application for relief must be accompanied by substantial proof and the military records of the applicant.]

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and applicable law.

1. The BCMR has jurisdiction of the case pursuant to section 1552 of title 10, United States Code.

2. The application for correction was not submitted timely, under the provision of section 1552(b) which states that applications should be submitted 3 years after an error or injustice to be timely. The applicant submitted his claim 8 1/2 years after the applicant's discovery of the alleged error or injustice. The Board has the authority to waive this timeliness requirement in the interest of justice, but the applicant did not give any reason for the Board to excuse the failure to file within 3 years.

3. The timeliness requirement is not waived in the interest of justice.

4. This case can not be processed because the application was not accompanied by substantial proof in support of a specific allegation of error or injustice and the because the Board did not receive the military records of the applicant.

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5. On June 2, 1999, the Board wrote the applicant that his case would be closed by July 17, 1999 without prejudice "unless we receive your military records and a copy of your DD Form 214."

6. The Board did not receive the applicant's military records by July 17, 1999 or an explanation as to why he submitted his application late.

7. Accordingly, the application should be denied.

ORDER AND SIGNATURES ON FOLLOWING PAGE

ORDER

The application of [redacted] USCG, for correction of his military record, is denied, without prejudice, unless the Board receives his military record or his DD Form 214; evidence of his marksmanship award; and a convincing excuse in the interest of justice for failure to file within 3 years after discovery.

