

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

Application for Correction
of Coast Guard Record of:

BCMR Docket No. 2000-102

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. The proceeding was docketed on March 27, 2000, upon the Board's receipt of a complete application for correction of the applicant's military record.

This final decision, dated February 8, 2001, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a ██████████ alleged that he should be certified eligible and authorized to wear the insignia "for Command at Sea."

Article 6.A.7. of the Coast Guard Personnel Manual (CGPERSMAN) authorizes commissioned and warrant officers to wear the command at sea insignia if they meet the requirements of that section. The basic requirement of that section is that the officer involved successfully commands a commissioned cutter for a period of six continuous or total months.

The applicant said he believed that he met the requirements for the insignia and had sufficiently met the "spirit" of the insignia. He said that a "recent medical condition has developed to where I will not be able to pursue an afloat command through the assignment process, as recommended on the last denial, and as I had intended."¹

¹ A separate insignia, called the Command Ashore Insignia, may be awarded to a commissioned officer or CWO who has commanded a shore unit for approximately six months. There are also two separate insignias for enlisted persons, Officer in Charge Afloat (OIC) and Officer in Charge Ashore. PERSMAN Articles 6.B.1.a. and 6.B.1.b. Article 6.B.1.a. reads in part as follows: "Enlisted personnel of the Coast Guard . . . are eligible to wear the Coast Guard OIC Afloat Insignia provided they [1] Are currently assigned by [CGPC] as the designated, not acting, OIC . . . [have] served as the designated OIC . . . for a minimum period of six months."

VIEWS OF THE COAST GUARD

On November 7, 2000, the Chief Counsel of the Coast Guard recommended that the Board accept, as the advisory opinion of the Coast Guard, the comments on this application issued by the Commander of the Coast Guard Personnel Command (CGPC). On October 26, 2000, the CGPC found that the applicant was not eligible to wear the "Command at Sea Insignia" pursuant to Article 6.A.7 of the Coast Guard Personnel Manual.

The Chief Counsel, on the basis of the findings of the CGPC, recommended that the requested relief be denied.

CGPC found that the applicant was the commanding officer of a commissioned cutter for a total of 59 days, from August 22, 1994 to May 19, 1995. The applicable regulation, according to CGPC, states that a member must have been in command for a total of six months or for six continuous months to be eligible for the command at sea insignia.

CGPC further found, from the Coast Guard Personnel Data System, that the applicant was the commanding officer of a shore station (Coast Guard Station [REDACTED]) at the same time he claims that he was the commanding officer of CGC [REDACTED]. No orders were issued by CGPC assigning the applicant to serve as commanding officer of the [REDACTED]. The applicant, according to CGPC, was detailed to serve as temporary commanding officer of the cutter when she was underway, but he returned to his shore duties when the cutter was moored.

CGPC concluded that there is "no documentation" supporting the applicant's claim that he held a command at sea. In an earlier message, dated February 14, 1996, CGPC said that the applicant's request for a command at sea designation could not be met because the assignments were temporary ones that do not meet the requirements of CGPERSMAN. CGPC said he "was not screened for this assignment through the normal process at the CG Personnel Command."

APPLICABLE REGULATIONS

Article 6.A.7. CGPERSMAN

"6.A.7.a. Recognition.

"The Coast Guard Command at Sea Insignia has been established to provide recognition to those officers who are in command of, or who have successfully commanded as commissioned officers or chief warrant officers, cutters of the Coast Guard. . . .

"6.A.7.b. Eligibility.

"Commissioned officers and chief warrant officers of the Coast Guard and Coast Guard Reserve in the grade of captain or below are eligible for the Coast Guard Command at Sea Insignia provided they:

"1. Are currently in command, or have successfully commanded for a period of six continuous months, commissioned cutters of the Coast Guard. . . .

"2. Are currently in command, or have successfully commanded for period of six continuous months, divisions of cutters.

"3. Are currently in command, or have successfully commanded for a period of six continuous months, aids to navigation facilities (ANFAC).

"4. Are currently assigned or have been assigned to a cutter with an augmented crew and must have successfully acted in the capacity as commanding officer for a total of six months.

"5. Are currently assigned or have been assigned to a division of cutters in the capacity of one of the commanding officers and must have successfully acted in the capacity of commanding officer for a total of six months

"6.A.7.c. Authority.

"Authorization to wear this insignia shall be granted in writing . . . 1. For active duty officers currently in command pursuant to orders issued by Commander (CGPC-opm) . . . upon successful completion of command using the criteria in paragraph d. below . . .

APPLICANT'S RESPONSE TO COAST GUARD'S VIEWS

On November 9, 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.

A response was received from the applicant on November 20, 2000.

The applicant alleged that he was eligible for the command at sea insignia under paragraphs (1), (2) and "specifically (4)" because it requires "a TOTAL of six months" rather than six continuous months. He also should be considered under paragraph (5), for the same reason.

The applicant said that "only a very narrow and subjective interpretation of selected parts of the Personnel Manual, has prevented me from receiving [the command at sea insignia]."

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. The alleged error or injustice was committed on February 14, 1996 when CGPC denied an application for a command at sea designation. An application for correction was not submitted to the Board until three years and approximately 11 months later, on March 27, 2000: To be timely, an application must be submitted within three years of discovery of the alleged error or injustice, 10 U.S.C. § 1552(b); 33 CFR § 52.22.

3. The Board finds that it is the interest of justice to excuse the failure to file timely, when the delay was minimal.

4. The applicant did not meet the requirements of Article 6.A.7.b (eligibility) of the CGPERSMAN. He was not eligible under paragraphs (1), (2), and (3) of Article 6.A.7.b. Because he was not the commanding officer for six "continuous" months. He was not eligible under paragraphs (4) and (5) of Article 6.A.7.b, because he was not "assigned" to serve as commanding officer of the CGC [REDACTED]

5. Active duty officers are authorized to wear the Command at Sea Insignia if "they are currently in command pursuant to orders issued by Commander (CGPC-opm)." Article 6.A.7.c. CGPERSMAN. The applicant was not eligible to wear this insignia because he was not in command pursuant to orders issued by CGPC.

6. No orders were issued from CGPC assigning the applicant to serve as commanding officer of the CGC [REDACTED]. He was serving as the commanding officer of the Coast Guard Station [REDACTED] at the time he asserts he was temporary commanding officer of the [REDACTED].

7. CGPC found that the applicant was not eligible under any paragraph of Article 6.A.7.b. because he was "actually aboard" the cutter for a total of only 59 days. All the paragraphs require six months total or continuous service.

8. The Board is persuaded that the Coast Guard did not commit an error or injustice in failing to award the applicant a command at sea insignia. His period of assignment as temporary commanding officer of the cutter failed to meet the time requirement of the regulation and his assignment as temporary commanding officer was not pursuant to orders by CGPC.

9. Accordingly, the application should be denied.

ORDER

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

