

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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 59-96

FINAL DECISION

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on January 16, 1996, upon the Board's receipt of the applicant's request for correction of his military record.

This final decision, dated February 28, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Application for Relief

The applicant, an electrician's mate second class (ET2; pay grade E-5), asked the BCMR to delete the unsatisfactory Good Conduct mark which he received on March 30, 1986. The applicant alleged that he was denied his Fourth Coast Guard Good Conduct medal on July 4, 1995 because of that "nine year old administrative error."

Views of the Coast Guard

Two months after docketing, on March 21, 1996, the Coast Guard Personnel Command [PC] recommended that the relief as requested not be granted. Ten months after this date, the BCMR received the PC's recommendation from the Coast Guard with a note of agreement from the Chief Counsel.

The Personnel Command reviewed the 1986 events and pointed out that the applicant was counseled on April 8, 1986 "concerning unsatisfactory performance of overall duty" and had "acknowledged this counselling in writing." The applicant had a combined mark of 11 in military factor on his evaluation for the period ending March 31, 1986. "In order to continue qualification for the Good Conduct award," according to the PC, "the minimum mark in this section was 12 ." The PC summarized its position as follows:

The member has received three Good Conduct Awards to date, but is not entitled to the Fourth award based on the provisions of the Personnel and

Medals and Awards Manuals. Were the applicant to receive the fourth award for which he was not eligible, it would add one additional point toward the final multiple and advantage the member unfairly over others competing for advancement to ET1.

The PC's advisory opinion was forwarded to the BCMR as the advisory opinion of the Coast Guard with the added comment that the applicant had not shown that the unsatisfactory conduct mark was error.

Applicant's Response to the Views of the Coast Guard

A copy of the advisory opinion was sent to the applicant with an invitation to him to submit a response. The applicant responded on January 7, 1997 by saying that denial of his application would amount to denying him the right to appeal a record made nine years ago. The applicant did not, however, identify, allege, and prove that any particular error was made in 1985.

Response of Applicant's Commanding Officer

The applicant's commanding officer endorsed his application by saying that "[a]fter so many years of excellent performance. . . his fourth award should not be denied due to a nine year old administrative error. Such an action would be tantamount to punishing the "Man" for his sins as a "Boy".

Supplemental Views of the Coast Guard

The Chief Counsel stated that a Good Conduct award must be earned and that there is no injustice in withholding the award from an individual who has not earned it. The Coast Guard also stated that the applicant has not proved that his marks were erroneous.

A copy of the Coast Guard's supplemental views were sent to the applicant, but the BCMR told the applicant that "[t]here is no need to submit any additional comments." In accordance with that statement, no further response was received.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and of the Coast Guard, the military record 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 applicant alleged that the Coast Guard committed error in 1985, nine years before he filed this application. The applicant alleged that the Coast Guard committed an "administrative error" in 1985 (marks were rated unsatisfactory), which caused him to be deprived of his fourth Coast Guard Good Conduct award in 1995.

3. The applicant did not prove that the Coast Guard had committed an error or injustice in 1985 with respect to the applicant's record. In that year, he was counseled and acknowledged counseling "concerning unsatisfactory performance," but he did not prove that the Coast Guard committed error or injustice regarding that finding.

4. The Coast Guard did not err in failing to award the applicant the Fourth Coast Guard Good Conduct Award because his marks for July 1983 to March 1986 were not sufficient.

5. Accordingly, the applicant's request should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of
military record is denied.

USCG, for correction of his

