


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

**Application for Correction
of Coast Guard Record of:**

**BCMR Docket
No. 2000-140**

FINAL DECISION

 This is a proceeding under section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on June 5, 2000, upon the Board's receipt of a complete application for correction of a military record.

This final decision, dated April 19, 2001 is signed by the three duly appointed members who were designated to serve as the Board in this case.

REQUESTED RELIEF

The applicant reported for active duty in the Coast Guard on January 8, 1943, and he was honorably discharged from the Coast Guard on November 28, 1945.

He claimed that while he was serving with the Army Transport Command in the Philippines, he was hospitalized as a result of wounds suffered during an enemy air raid. He alleged that there was "no record of [these] wounds or hospital."

The applicant asked the Board "to correct [its] records to reflect the facts" that he was wounded and hospitalized at an Army hospital in Tacloban, Philippines. He stated he was not asking for any medals but only for the correction of his records so that he would have the opportunity to use the VA hospital if he should "become terminally ill."

The applicant did not submit any statements that might corroborate his assertions or any other evidence that might support any of his allegations. He also did not give any reason for his 55-year delay in filing an application with the Board.

VIEWS OF THE COAST GUARD

On December 7, 2000, the Chief Counsel of the Coast Guard submitted an advisory opinion to the Board recommending that relief be denied in this case.

The Chief Counsel recommended denial on the ground of lack of proof. He said that the Coast Guard "cannot recommend relief in the absence of sufficient proof to support Applicant's allegations of error." The Chief Counsel pointed out that "Applicant has not offered any evidence to prove he sustained a wound during an

enemy air raid nor has he offered any evidence that he received medical treatment in a hospital for that wound." He said that the Government does not have to disprove allegations of the applicant; it is the applicant who bears the burden of producing enough evidence to establish prima facie proof of error or injustice.

The Chief Counsel said the applicant's military medical record contains no evidence that he ever sustained a combat or service-related injury. His medical condition, as a result of an end-of-service physical examination, indicated he had only one abnormality – a scar from an appendectomy in 1939. No mention was made of a wound.

APPLICANT'S RESPONSE TO COAST GUARD VIEWS

The Board sent a copy of the views of the Coast Guard to the applicant on December 8, 2000, with an invitation to him to submit a response within 15 days.

The applicant responded on December 18, 2000. He said "I want nothing from you except to correct your records. . . . I was in an Army hospital in Toclolan. . . . What is so hard about obtaining their records and placing them in my file?"

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the parties, the military record of the applicant, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10 of the United States Code.
2. The application is not timely. Section 1552(b) of title 10, United States Code requires an application for correction of a military record to be submitted within three (3) years of the applicant's discovery of an alleged error or injustice in the record, unless it is in the interest of justice to consider an application that is filed later.
3. The applicant did not submit his application for correction of his record until approximately 55 years after his alleged discovery of the Coast Guard's alleged error or injustice.
4. The applicant did not set forth any reason why it would be in the interest of justice to decide a 55-year-old claim on the merits.
5. A cursory review of the merits of the claim indicates that the applicant has submitted no evidence in support of his allegations. "It is the responsibility of the applicant to procure such evidence . . . as the applicant desires to present in support of his case. 33 CFR § 52.24.
6. The application should be denied.

ORDER

The application to correct the military record of former [REDACTED] USCG, is denied without prejudice. If the applicant submits any evidence of his alleged injury in the Philippines during World War II within 120 days of the date of this order, the case shall be reopened.

