

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-146


SA (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 August 7, 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 June 5, 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 active-duty member of the Coast Guard with over seven (7) years of honorable service to combine between the Army and Coast Guard. The applicant received an honorable discharge from the Coast Guard in 2004. The applicant is seeking a medical discharge or medical retirement because of the injuries incurred while serving on active duty. During the applicant's discharge, he never received a medical evaluation board to determine his eligibility for either medical retirement or discharge. Instead, the applicant was honorably discharged and has since been reviewed by the Veterans Administration (VA) to determine the applicant has a ninety percent (90%) service-connected disability in 2023. The applicant claims he failed to reach out within the three years of his discharge because he was told by his command his medical concerns would be addressed by the VA and he did not need to wait on a medical board. Additionally, the applicant requests his Global War on Terrorism Service Medal (GWOTSM) to be added to the applicant's decorations within his military record since he served on active duty during Operation Iraqi Freedom.

SUMMARY OF THE RECORD

In 2004, the applicant was separated from the service for personality disorder with an honorable discharge.

On January 10, 2023, the applicant received from the Veteran's Affairs (VA) a diagnosis of service-connected disability rating for depression at ninety percent (90%).

On August 7, 2024, the applicant applied to the Board seeking a medical discharge or medical retirement because upon discharge the Coast Guard did not offer a medical review board for conditions present while in service.

VIEWS OF THE COAST GUARD

On April 14, 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 prepared by the Coast Guard Personnel Service Center (PSC).

According to Coast Guard policy the applicant was not entitled to a medical review board at the time of his discharge because he did not have a qualifying condition for a physical examination board to be complete. The personality disorder that the applicant was discharged for stems from manic depressant disorder, which is not a qualifying disorder for a medical discharge within the Coast Guard. The JA contends that the applicant also had numerous poor performance reports. After being placed on performance probation the applicant was ultimately discharged involuntarily but with a honorable discharge type.

The Coast Guard followed its policy on proper separation of the applicant. The applicant has also applied outside of the three-year limitation and should be barred from applying as no injustice has occurred to overcome the time limitation for application. The JA recommends that the board deny relief.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 24, 2025, the Chair sent the applicant a copy of the Coast Guard's views and invited her to respond within thirty (30) days. The applicant has not submitted a response since the time of this decision.

APPLICABLE LAW AND POLICY

The Board may correct errors or remove injustices in a service member's records pursuant to 10 U.S.C. § 1552(a).

(1) Error can be defined as either legal and/or factual.

(2) Injustice, when not also error, is treatment by the military authorities that "shocks the sense of justice."¹ In addition, the Board has the authority to decide whether an injustice exists in an applicant's record on a case-by-case basis. The application must file within three years after discovery or reasonably should have discovered the alleged error or injustice for a correction or relief.²

¹ *Sawyer v. United States*, 18 Cl. Ct. 860, 868 (1989) citing *Reale v. United States*, 208 Ct. Cl. 1010, 1011, cert. denied, 429 U.S. 854, 50 L. Ed. 2d 129, 97 S. Ct. 148 (1976).

² 33 C.F.R. § 52.22

33 C.F.R. § 52.24 (a)

Burden of Proof: “It is the responsibility of the Applicant to procure and submit with his or her application such evidence, including official records, as the Applicant desires to present in support of his or her case.”

33 C.F.R. § 52.24 (b)

Presumption of Regularity: “The Board begins its consideration of each case presuming administrative regularity on the part of the Coast Guard and other Government officials. The Applicant has the burden of proving the existence of an error or injustice by the preponderance of the evidence.”

Physical Disability Evaluation System, COMDTINST M1850.2D,

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant’s military record and submissions, the Coast Guard’s submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his 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. The applicant brings this request beyond the required three years of its occurrence making the application untimely for review. The Board has the authority to waive timeliness to best serve justice, however this case does not present an injustice to the applicant. The applicant’s delay of over twenty (20) years before bringing a request for a medical discharge is not excusable.

3. After a cursory review of the record the applicant has failed to prove that an injustice has occurred to overcome the requirement to apply within the statutory three-year limit. The Coast Guard appears to have completed the separation of the applicant within its regulations and according to proper authority. There has been substantial time between the applicant’s separation from the Coast Guard for personality disorder to when the applicant received a service-connected injury rating of ninety percent (90%) from the VA. While the applicant had mental health issues while serving these were not qualifying mental health issues for a medical board. The length of time between service and this application brings a hardship to the Coast Guard because evaluating the applicant at this time will prove challenging and without merit for the request. However, we will grant relief to the applicant for his request to update his decorations as having earned the GWOTSM because it is evident he served post 9/11 during the Operation Iraqi Freedom, which is the time this medal was awarded to all service members of the Coast Guard. We routinely grant this as an administrative correction that the applicant is entitled to and therefore no further analysis is required.

4. The request for the applicant to be medically evaluated nearly twenty years later will not be reviewed. The applicant's service record contains several probationary periods for poor conduct including a Non-Judicial Punishment (NJP) for being twenty-one (21) days absent without leave (AWOL). The applicant's service record appears to demonstrate unsuitability by the applicant to adhere to the Coast Guard policies and this prompted the applicants involuntary yet honorable discharge.

5. The medical records provided date back to 2007, which is three years after the applicant was discharged from the service. Additionally, a VA rating does not automatically translate as evidence of being qualified for a medical discharge or medical retirement for a former service member. Many prior service members receive increase disability ratings after leaving service but were still properly discharged. The applicant's approval rating by the VA does not create a determination for the Coast Guard's medical process.

6. After cursory review of the applicant's application, service record, and applicable law and policy, the Board finds the Coast Guard maintains its presumption of regularity. The applicant has not overcome the time limitation based on an injustice occurring and therefore his request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former SA [REDACTED], USCG, for correction of his military record is partially granted to include his earned Global War on Terrorism Service Medal for his active-duty service time within his military record. The applicant's request for medical discharge or medical retirement by the Coast Guard is denied.

June 5, 2025

