


DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of  
Coast Guard Record of:



BCMR Docket  
No. 155-96


**FINAL DECISION**

 Attorney-Advisor:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on September 6, 1996, by the filing of an application for relief with the BCMR.

This final decision, dated September 26, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case.

**Applicant's Request for Relief**

The applicant is a  on active duty in the Coast Guard. He asked the BCMR to correct his record by changing the "Primary Duties" section (block 2, description of duties) on the first page of an officer evaluation report (disputed OER) in his military record. The applicant alleged that the disputed OER, dated May 8, 1996, "detailed the Primary Duties incorrectly." He submitted an amended OER with a revised block 2 that, according to the applicant, listed his primary duties correctly. The applicant asked the Board to substitute the amended OER's first page for the original first page of the disputed OER.

**Views of the Coast Guard**

On February 28, 1997, the Coast Guard recommended that the applicant's request be denied.

The Service stated that the application should be denied because it lacks specificity and proof of an error or injustice. The Chief Counsel of the Coast Guard asserted that the applicant "neither identifies the matter in the original OER that is supposedly incorrect, nor provides any proof that this matter is incorrect." The Chief Counsel asserted that the applicant's request should be

denied because "neither the Coast Guard nor the Board can effectively address the merits of this application without specific allegations or substantial proof."

The Chief Counsel stated that "[e]ven if Applicant had shown some error, he would not be entitled to the relief requested." The Chief Counsel asserted that the applicant's request to "replace a facially valid description of duties in the challenged OER with his own rewrite" goes against Coast Guard regulations. Article 10-A-4.d(2) of the Coast Guard Personnel Manual provides that the section the applicant seeks to replace is prepared by the member's supervisor, and not by the reported-on officer (the applicant). The Chief Counsel stated that the applicant should have submitted an OER reply if he disagreed with the contents of block 2 of the disputed OER.

The Chief Counsel also asserted that the application should be denied because the applicant has failed to exhaust all available administrative remedies, as required by the BCMR regulations in title 33, Code of Federal Regulations (CFR), section 52.13(b). The Chief Counsel stated the applicant's request for a change to his OER is "a matter clearly within the purview of the Personnel Records Review Board [PRRB] . . . ."

The Chief Counsel stated that the applicant could submit his request to the PRRB because it was still "within one year of the date on which the contested information was, or should have been, entered into the official record." The disputed OER in the applicant's case was validated on June 11, 1996, so the applicant had until June 11, 1997 to submit his application to the PRRB.

### **Applicant's Response to the Views of the Coast Guard**

On March 5, 1997, the BCMR sent the applicant a copy of the Coast Guard's comments, and encouraged him to respond. The BCMR has not received a response from the applicant.

It is unknown whether or not the applicant applied to the PRRB for relief, pursuant to the recommendation of the Coast Guard.

### **RELEVANT REGULATIONS**

Title 33 of the CFR, section 52.13(b) states the following:

(b) No application shall be considered by the Board until the applicant has exhausted all effective administrative remedies afforded under existing law or regulations, and such legal remedies as the Board may determine are practical, appropriate, and available to the applicant.

Title 33 of the CFR, section 52.21(c) states the following, in part:

(c) No application [for BCMR consideration] shall be processed until it is complete. An application for relief is complete when all of the following have been received by the Board:

- (1) A signed DD Form 149, providing all necessary responses, including a specific allegation of error or injustice, accompanied by substantial proof in support of such allegation; . . . .

Commandant Instruction 1070.10 establishes the PRRB. Paragraph 8 of the Commandant Instruction provides that "PRRB applications must be received at Coast Guard Headquarters within 1 year of the date on which the contested information was entered or should have been entered into the official record."

#### 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 section 1552 of title 10, United States Code. The application was timely.

2. The applicant did not describe the specific error, or errors, that existed in the listing of his primary duties in block 2 of the disputed OER, nor did the applicant explain why the primary duties listed on the disputed OER were in error. Additionally, he submitted no evidence to support his assertion of error, or to justify the replacement of the first page on the disputed OER with a revised first page of his own making.

3. The applicant has not alleged a specific error or injustice in his military record and has not provided the Board with evidence to support his allegations. Therefore, he has not met the requirements for Board review. *See* 33 CFR § 52.21 (c)

4. Accordingly, the application should be denied.

ORDER

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

