

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2020-101


CWO2

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on March 25, 2020, and assigned the case to the staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision dated April 11, 2023, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant, a Chief Warrant Officer (CWO2) on active duty, asked the Board to correct his record by removing the Reviewer comments on his June 30, 2018, Officer Evaluation Report (OER) and the mark indicating that the Reviewer had included "Comments Regarding Performance and/or Potential Significantly Different than Supervisor or RO." The applicant also requested that the Board remove his non-selection for promotion by the Promotion Year 2020 ADPL CWO3 Selection Board, which convened in 2019, in addition to any subsequent non-selections that would take his June 30, 2018, OER into consideration. Finally, the applicant asked the Board to promote him to CWO3 effective June 1, 2020, or as soon as possible thereafter, with backpay and a date of rank showing June 1, 2020.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on August 12, 1997. He trained as a Boatswain's Mate, where he continued to promote to Chief Boatswains Mate, until his commissioning as a CWO2 on June 1, 2016.

On June 1, 2016, the applicant reported for duty as the Executive Officer (XO) of a cutter.

On May 15, 2018, the applicant's cutter collided with a private vessel while navigating through fog. As a result of the collision, an Administrative Investigation was initiated.

On June 6, 2018, the administrative investigation was completed and the Investigating Officer's Report was issued. The relevant portions of the report are summarized below:

5. Weather reports the morning of the 15th May indicated patchy fog in the upper [redacted] with visibility of one to two (1-2) miles. Per the weather log, visibility at 0800 was logged as 3 miles, however visibility dropped to zero at the 0900 entry. Winds were from 214 degrees at 6 knots. Temperature was 66 degrees. (Exhibit 7).

6. In accordance with CGC [applicant's vessel] Smooth Log, they were underway from [redacted] at 0804 (Exhibit 8) with BM1 [redacted] assuming the Deck and Conn. Of particular note, the Navigation Brief and Risk Assessment were not entered into the Smooth Log as required by reference (d). Upon contacting Vessel Traffic Systems (VTS) [redacted] via channel 14, VTS stated they did not observe CGC [applicant's vessel] transmitting on AIS (Exhibits 9 & LO). CGC [applicant's vessel] AIS was reset immediately and VTS indicated they could now observe them on their radar screens. This concurs with VTS [redacted] geo-display playback mode for 15 May 2018. (Exhibit 11).

7. Once, at the end of the [redacted] pier, the [applicant's vessel] encountered a patch of fog and visibility decreased to 100 yds. The low visibility checklist was broken-out only and not completed as required by CO's Standing Orders. The sound signal was energized, however the navigation lights were not. In effect, [applicant's vessel] was never "manned and ready" for low visibility detail. Of particular note, the JOOD failed to make an entry into the cutter's Smooth Log indicating such actions (Exhibit 8). Low visibility detail was never announced over the ship's IMC, however upon hearing the sound signal, SN [redacted] and SN [redacted] (already positioned on the fo'c'sle for mooring stations) assumed the role of lookouts. (Exhibits 12 & 13).

8. At 0819, [applicant's vessel] was on a course of 128T@ 11.3 knots. They could visually observe to the north the [ferry AB] on a course of 210T at a range of 1585 yds, speed 2.7 knots. [Ferry AB] was slowing to allow a tug and tow, [tug vessel RB] to proceed westbound entering the [redacted] channel. [Applicant's vessel's] CO had arranged (via channel 13) to pass ahead of the [ferry AB], taking the stem of the [ferry AB]. (Exhibits 6, 9, 10, 11, 14 & 15).

9. Once clear of [ferry AB] and [tugboat RB], [applicant's vessel] turned to a course of 179T@ 10.3 knots. A deep-draft container ship, [container ship MA] was "loitering" with 03 docking tugs east of [redacted], between [redacted] LBB #26 and [redacted] Channel LB #2. [Container Ship MA] was located on the green side of the channel as it was preparing to enter the [redacted] channel (Exhibits 6, 11 & 16). The CO had arranged a "starboard to starboard" passing arrangement with the pilot of [container ship MA]. This situation had [applicant's vessel] working its way over to the red-side of the channel. Rule #9 of reference (e) states "a vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel which lies on her starboard side as is safe and practicable."

10. The tug, [MT] was outbound [redacted] on a course of 179T @4 knots. [Tugboat MT] was located east of [redacted] LBB #26, [redacted] channel. [Applicant's vessel] CO had arranged to overtake [tugboat MT] on her starboard side via channel 13. (Exhibits 9 and 16).

11. At 0833, [applicant's vessel] had safely passed [container ship MA] and [tugboat MT] and was coming right to a course of 180T@ 10 knots [applicant's vessel's] CO had arranged a "port to port" passing with the [tugboat V] who was located at the [Bridge] on a course of 342T @ 5.5 knots. Simultaneously, the fast ferry [MP], making 28 knots passed in front of [applicant's vessel] at a range of 2002 yds. Another fast ferry, [SW] was picked up on radar in the vicinity of the [Bridge] on a course of 346T@ 30 knots. They agreed to a "starboard to starboard" passing arrangement. Thus, [applicant's vessel's] intent was to pass between these two northbound contacts. [Applicant's vessel] maintained a speed of 10 knots. (Exhibits 11 & 17).

12. At 0834, BMC [redacted] (radar/shipping) reports multiple "ghost contacts" off the bow. Ghost contacts are radar bleeps that jump around and do not correlate to any real contacts, AIS contacts or buoys. It is not

uncommon for the radar to pick up the wake of a passing vessel or birds. Despite numerous ghost contacts, [applicant's vessel] maintained a speed of 10 knots. (Exhibits 15 & 18).

13. At 0835, fast ferry [SW] passed [applicant's vessel] starboard to starboard. Lookouts report hearing one prolonged blast from their starboard quarter as the fast ferry [SW] passed. Almost immediately upon passing fast ferry [SW], BMC [redacted] reports a solid contact at an approximate range of 500 yds with a closest point of approach (CPA) of 20 yards making 13 knots on a course of 342T. This contact was labeled "contact 11" and was not transmitting AIS. [Applicant's vessel] maintained a speed of 10 knots. (Exhibits 13, 15 & 19).

14. The Motor Yacht [CA] is a 94' Hargrove, fiber-glassed hull motor yacht with a crew complement of 4. Crewmembers on board were part of the delivery crew making the transit from [redacted] to [redacted]. [Private vessel CA] was transiting to [redacted] located in upper [redacted]. The owner is Mr. [redacted]. [Private vessel CA] had 2 licensed Captains onboard: Mr. [MH] and Mr. [CC]. (Exhibits 20 & 21).

15. There are inaccuracies in the [private vessel CA's] logbook entries. The entries are dated for May 14, 2018, when the collision occurred on May 15, 2018. The positions entered do not correlate to VTS [redacted], radar playback or ECDIS screen-shot from [applicant's vessel]. (Exhibit 22).

16. The [private vessel CA] suffered a loss of engine power off the coast of [redacted] the week prior to colliding with the [applicant's vessel]. Upon receipt of a mayday call from [private vessel CA], Sector [redacted] was unable to establish radio communications despite numerous call-outs not only from the Sector Command Center but from marine-traffic identified in the vicinity of [private vessel CA]. CG aircraft 2003 was launched and located [private vessel CA]. [Coast Guard vessel RS] diverted to assist and towed [private vessel CA] to [redacted]. (Exhibit 23).

17. The Coast Guard Navigation Rules and Regulations, reference (e), is applicable to both [applicant's vessel] and [private vessel CA]. At 0836, both vessels were underway, making way, defined as power-driven vessels, meaning any vessel propelled by machinery.

18. Rule #35 of reference (e) states for vessels operating in or near areas of restricted visibility shall sound at intervals of not more than two minutes, one prolonged blast for making way through the water. If stopped and making no way through the water, at intervals of not more than 2 minutes shall sound two prolonged blasts in succession with a two-second interval. Furthermore, Rule #20 of reference (e) requires navigation lights to be displayed from sunset to sunrise and in areas of restricted visibility. [Applicant's vessel's] sound signal was energized however, the navigation lights were not energized IAW CO's Standing Orders and Low Visibility Check-list. [Private vessel CA's] Captain, Mr. [MH] states his sound signal was never turned on and navigation lights were energized however [applicant's vessel's] lookouts dispute that claim. Mr. [MH] states he posted a lookout however just before impact, the lookouts on board [applicant's vessel] state they never observed anyone on the fo'c'sle of the [private vessel CA]. (Exhibits 12, 13, 20 & 21).

19. At 0835 BMC [redacted] reported "contact 11" directly off the bow of [applicant's vessel] at approximate range of 500 yards, making 13 knots with a constant bearing and decreasing range (CBDR). The XO [applicant] visually confirmed "contact 11" and ordered BM1 [redacted] to come hard to starboard. The CO sounded five short blasts (danger signal). It was at this point [applicant's vessel] began reducing speed. At a distance of approximately 100 yards, [private vessel CA] came into sight of [applicant's vessel]. (Exhibits 6, 10, 11, 14 & 15). Rule #19 of reference (e) states a vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or if risk of collision exists. If so, she shall take avoiding action but as far as possible an alteration of course to port for a vessel forward of the beam shall be avoided.

20. Upon coming within sight of one another, [private vessel CA] turned to port while [applicant's vessel] turned to starboard. Once it became apparent to the XO [applicant] that [private vessel CA] was turning in their direction, he ordered BM1 [redacted] to apply a full backing bell while XO applied 100% thrust to port on the bow thruster. At 0835, [applicant's vessel's] speed was 9.7 knots. At 0836, her speed had been reduced to 2.8 knots which indicates a significant stem thrust being applied. (Exhibits 6, 10, 11, 14, 15 & 24).

21. At 0836, [applicant's vessel] collided with [private vessel CA]. [Applicant's vessel's] starboard bow impacted the starboard quarter of [private vessel CA] (Exhibits 11, 24, 25 & 26). Immediately upon colliding, [applicant's vessel] came to all stop while [private vessel CA] maintained course-and speed proceeding to [redacted]. Voice recordings have [applicant's vessel] calling [private vessel CA] on channel 16 (Exhibit 11). Captain [MH's] indicates he was monitoring channels 13 and 16. He indicates he called [applicant's vessel] several times after the collision but there are no voice recordings on channel 13, 14 and 16. Captain [MH] also stated the collision occurred "at marker #26." This may be reference to [redacted] LBB #26, however the collision took place south of [redacted] channel LB #2. (Exhibits 11, 20, 21 & 24).

22. In accordance with reference (f) all power-driven vessels of 40 meters or more in length are required to participate in and report to VTS. Furthermore, it requires all power-driven vessels of 20 meters or more in length to maintain a listening watch on the designated VTS frequency (channel 14) when navigating in the VTS area. Mr. [MH] indicated he was monitoring only channels 13 & 16. Mr. [MH] also states he was transmitting on AIS and that the [applicant's vessel] was not transmitting on AIS however VTS [redacted] radar playback clearly displays the [applicant's vessel] AIS feed and not the [private vessel CA]. [Private vessel CA] crewmember, Mr. [RC] remarked that his mother attempted to locate [private vessel CA] that morning on her Marine Traffic app. She was unable to determine their position on the morning of May 15, 2018, and Mr. [MH] was aware of that. Mr. [MH] states he was conducting security calls and calling out his position. It is unclear which frequency he was utilizing, however, there is no evidence of voice recordings on channels 13, 14 or 16 from the [private vessel CA] other than talking to the [tugboat V] south of the [Bridge]. Lastly, VTS [redacted] radar plot of [private vessel CA] show no course changes or apparent speed changes after the collision. (Exhibits 11, 20 & 21).

23. At 0837, [applicant's vessel] notified Sector [redacted] of the collision and that [private vessel CA] was no longer visible due to fog (Exhibit 9). At 0838, [applicant's vessel] transited to [redacted] (anchorage area east of [redacted]) to assess damage. Emergency checklists were not utilized however the CO made a pipe over the IMC immediately after the collision to alert the crew and check for damage. (Exhibits 6 & 10).

24. Damage sustained to [applicant's vessel] is a 3' scratch of the paint located on the starboard bow (Exhibit 25). Damaged sustained to [private vessel CA] is pending assessment and arrival to [redacted]. Pictures taken by Sector [redacted] personnel would indicate significant fiberglass damage along upper deck of starboard quarter. (Exhibit 26).

Opinions

1. Rule # 19 of reference (e) states while operating in restricted visibility, if a contact is detected forward of your beam and you cannot determine or avoid a close-quarters situation, you shall reduce speed to the minimum at which she can be kept on course. Once BMC [redacted] determined that he could not correlate the "ghost contacts" or contact #11 ([private vessel CA]), [applicant's vessel] never reduced speed to assess these contacts until danger of collision is passed and clear. Just prior to the collision, I believe there was a momentary loss of situational awareness amongst [applicant's vessel's] bridge personnel and no action was taken to mitigate the potential for real contacts (FOFs 5, 7, 12, 13, 17, 18, 19 & 20).

2. The Commanding Officer is inescapably responsible for [applicant's vessel] and her crew at all times. The CO failed to adhere to his own Navigation Standards and Standing Orders contained in references (g) and (h) as well as the rules of prudent seamanship by not following his own checklist. The speed of advance with limited visibility, potential radar contacts forward of your beam was unsafe and increased the chance of collision. I believe, if [applicant's vessel] had reduced speed at any point throughout her transit that morning, this incident might have been avoided. Upon completing a 4-week maintenance period, any shipboard evolution is inherently dangerous and requires coordinated teamwork to achieve operational success and maximize safety. The decisiveness by the XO and BM1 at the point both vessels came insight of one another prevented more significant damage and potentially, injuries or loss of life. (FOF 19 & 20).

3. The [private vessel CA] appears to have been operating recklessly given the weather and traffic conditions in the Upper Bay and by not observing basic tenets of prudent seamanship or the Rules of the Road. It is

inconceivable to assume, that the [private vessel CA] did not pick up [applicant's vessel] on radar at a greater distance of 500 yards due to the steel hull of a 175' cutter. (FOFs 13, 15, 18, 21 & 22).

4. I do not believe [private vessel CA] was monitoring VTS [redacted] (channel 14) as required for power driven vessels of their size (FOF 21& 22).

Recommendations

1. That LCDR [redacted] retains command of CGC [applicant's vessel]. (Opinions 2, 3 & 4).
2. That this incident is properly captured when evaluating the CO's performance in the next regular Officer Evaluation Report (OER).
3. That [applicant's vessel] should conduct a unit safety stand-down to review Bridge Resource Management principles and incorporate operational risk management, both formally and informally, at all levels. (Opinions 1 & 2).
4. Revise the CO's Standing Orders; articulate when to split Deck and Conn responsibilities for evolutions that require split focus for movement and control of the cutter and emphasize completion of checklists. Reference (h) contains CO's Standing Orders which dictate splitting of the Deck and Conn only when the pace of the watch makes it difficult to focus on the safe operation of the ship due to frequent communications, navigation, or other distractions. BM1 [redacted] assumed both Deck and Conn prior to getting underway and maintained both responsibilities until after the collision. Additionally Standing Orders state, regarding the use of check sheets; "Our operations and the ship are complex. It is imperative we use check-lists when preparing for evolutions or responding to emergencies. Many mishaps could have been prevented had people used and followed checklists. If a check-list is not complete, we are not ready. Whether mooring, getting underway, setting AtoN detail, anchoring, etc. do not proceed if the checklist is not complete unless specifically authorized by the Commanding Officer." (Opinions 1 & 2).
5. Upon final reviewing authority action, forward a copy of the investigation to the Command and Operations School, [redacted]. for incorporation in the curriculum of the PCO/PXO Afloat course.

On July 21, 2018, the applicant's Commanding Officer (CO) was relieved for cause, contrary to the investigator's recommendation, but the applicant remained aboard as the cutter's XO until his scheduled transfer on July 15, 2019.

On December 18, 2018, the applicant received the disputed OER, which is his annual OER for the rating period of July 1, 2017, through June 30, 2018. In this OER, he received nine 7s (the highest possible mark) and nine 6s.¹ The applicant also received a mark of "One of few distinguished officers" on the Comparison Scale, which is the second highest mark available. The CO of the cutter who had been aboard during the collision and subsequently relieved for cause prepared and signed this OER as both the applicant's Supervisor and Reporting Office (RO). The CO provided the following comments:

Performance of Duties. Exceptional foresight; preps in advance of transfer season encouraged crew to pursue advanced quals and fill roles of departing members. Superb planning eliminated single points of failure and ensured continued operational success. Outstanding commitment to continuous improvement garnered spectacular results from visiting inspection teams (TSTA, BDTT, FSAT, FORCECOM Admin & Finance); all inspections saw marked improvement from previous reports. Demonstrated remarkable mastery of WLM platform pushing unit to achieve atypical results. Routinely called upon to maneuver cutter in most

¹ On an OER form, an officer is rated in eighteen performance dimensions on a scale from 1 (worst) to 7 (best). There are also seven possible marks on the Comparison Scale.

demanding circumstances including approaches on discrepant buoys in the ice. Consistently overcame ambiguity in dynamic underway environment. Led crew through dynamic 2017-2018 ice season and through multiple mission limiting casualties. Selected and provided valuable input to Ice Rescue TIP; informed decisions to limit unnecessary impact on operational units. Clearly articulated changes to ops and status to keep crew informed. Compassionate listener; sought out by crew for counseling & mentorship. Authored exceptional recognition for deserving mbrs (5 awards, 4 SOQ, and 1 Sailor of the Year write up).

Leadership Skills. Compassionate leader; helped numerous mbrs through significant life events. Leveraged resources (chaplain, work life, EAP, etc.) to ensure mbr and unit needs were met. Strong advocate for professional development; took large role in indoctrinating new ILT and BM2 following multi-month absence in both positions. Shepherded mbrs through quals and helped them to excel in new roles. Volunteered to serve as Cape May recruit company mentor, advice positively impacted future of CG workforce. Exceptional leadership; earned crew buy-in for short notice recall during holiday stand down; efforts allowed quick discrep correction. Worked w/fellow XOs to share lessons learned & improve admin support processes and highlighted best practices. Consummate team player; quickly rallied other units to provided much needed tools and equipment to visiting southern WLB forward deployed in support of ice breaking ops. Allowed unit to quickly make positive impact during demanding ice season.

Personal and Professional Qualities. Stalwart advocate for process improvements; spearheaded new programs with positive attitude. Stood up unit's independent urinalysis program to alleviate workload of sector support units. Championed roll out of new enlisted eval system; informed crew and gained support for positive change. Astutely id'd areas of concern following transfer season. Keen focus on internal/external barriers ensured new crew members bought in to unit mentality and ethic. Mentored struggling TAD break-in DWO; made astute performance evaluation and diagnosed roadblocks to success. Projected ideal CG image to various groups including during multi-agency [redacted] ops. Ardent supporter of physical and emotional fitness for self and others. Coached multiple members on weight probation to healthier lifestyles. Instituted crew workouts and challenges to improve unit fitness.

Reporting Officer Comments. MBR continued to excel as XO and first tour CWO. MBR continued to build upon success of first year onboard. MBR led unit through difficult transfer season transition and capitalized on opportunities for improvement and continued to garner support for "one team-one fight" philosophy. MBR's expertise and leadership were essential to unit's success during demanding ice season. MBR is a stalwart pillar at the unit and is adept at enabling both personal and professional growth in others. MBR has my earned and maintained my strongest endorsement and is a must select for continued service in any high-profile cmd afloat positions. WLM/WLIC/WLI/WLR/WPB. MBR would be a valued addition to any wardroom and is an exceptional candidate for CWO to LT program. MBR would excel as WLM CO/WLB XO and WLB CO. Recommended for accelerated promotion to CW03.

The OER Reviewer, who was the District Chief of Operational Planning, did not mark the "concur" box to indicate that he concurred with the CO's evaluation and instead marked the box indicating "Comments regarding performance and/or potential significantly different than Supervisor or RO." The Reviewer's comments in the Reviewer Authentication block are as follows:

Questionable profll competence: failed to exercise low-visibility checklist as cutter operated in 100 yds of visibility - resulted in collision w/ 94' motor yacht. Ineffective team leader: distracted & unfocused, unable to fulfill role as safety officer during routine outbound transit, crew not directed to fill critical nav detail roles - led to break in situational awareness in high risk situation. Poor judgment: failed to analyze full picture of cutter operating in high traffic area in low visibility - placed cutter & crew in position of unnecessary risk to conduct routine training. Not recommended for follow-on tour in command position.

APPLICANT'S ALLEGATIONS

The applicant alleged that the comments written in the Reviewer Authentication section on his June 30, 2018, OER did not align with policy or the findings in the administrative investigating officer's final report into the collision with the private yacht. The applicant cited Article 4.G.1.b. of the Officer Evaluation System Procedures Manual, PSCINST M1611.1D, which states, "A Reviewer's signature verifies completion of their OES responsibilities, the evaluation is fair and accurate, and they attest that their comments are their own and reflect the Reported-on-Officer's (ROO) performance during the period of report." The applicant alleged that the Reviewer wrote comments about questionable professional competence, ineffective team leadership, and poor judgement, all based on the collision between his vessel and the private yacht. The applicant noted that the CO of the cutter gave him top marks of 7 for "Professional Competence" and "Judgment." The CO also described the applicant as a displaying "exceptional leadership" and "consummate team player" in section 3b of the OER.

The applicant explained that at the time of his vessel's collision with the private yacht, he was the vessel's XO and was present on the bridge. The applicant stated that his request for relief is in no way meant to absolve him of his responsibility in the collision but noted that the Investigative Report found that "the decisiveness by the XO and BM1 at the point both vessels came in sight of one another prevented more significant damage and potentially, injuries or loss of life." The applicant argued that the investigative officer's report did not align with the Reviewer's comments on his OER which stated he was "distracted and unfocused" and "placed cutter and crew in position of unnecessary risk to conduct routine training." The applicant explained that the administrative investigation lists every qualified Officer of the Deck (OOD) on the bridge filling required navigation positions to include lookouts posted on the bow, but the Reviewer stated, "crew not directed to fill critical nav detail roles." The applicant cited Article 5.B.3 of PSCINST M1611.1D, the OER manual, which states, "The Reviewer may explain or reconcile discrepancies or conflicts reflected in the completed report, if these inconsistencies cannot be resolved by returning the report to the concerned rating chain members or through personal discussion." The applicant argued that the Reviewer's comments were significantly different than the CO's and contradicted the administrative investigation and so a dialogue between the Reviewer and the CO should have occurred but never did. According to the applicant, the Reviewer's failure to have this dialogue negated the reconciliation process as described in PSCINST M1611.1D.

The applicant alleged that there is a "check" built into the evaluation process for the officer(s) who serve as Supervisors and ROs, but a similar "check" is not in place for the Reviewer's comments. The applicant cited Article 1.A.4.b.1. of PSCINST M1611.1D, which states, "The Reviewer shall ensure the OER reflects a reasonably consistent picture of the Reported-on Officer's (ROO) performance and potential." The applicant argued that without corroborating comments from others with intimate knowledge of his performance or the collision, the Reviewer's comments did not provide a reasonable picture of his performance or potential.

To support his requests, the applicant provided a personal statement from the CO of the cutter, who served as both the Supervisor and RO for the disputed OER. The CO stated that as the applicant's Supervisor, he was intimately familiar with the applicant's performance during the July 1, 2017, through June 30, 2018, rating period, including his actions during their vessel's collision

with the private yacht. The supervisor stated that he had over eleven years in the Coast Guard, including nine aboard cutters, and had marked the applicant's performance as he saw fit. According to the CO, the marks and comments in the disputed OER were supported by the investigating officer's report. The CO alleged that on October 3, 2018, he was notified that the applicant's OER needed to be resubmitted on a different form, which he alleged he turned in the same day. The CO further alleged that at that point, there was no derogatory information included in the applicant's OER and the Reviewer authentication block was blank. The CO stated that he never spoke with the Reviewer on any occasion regarding the applicant's OER. The CO argued that PSCINST M1611.1D requires that any discrepancies or conflicts noted by the Reviewer must first be attempted to be resolved with the rating chain, by returning the report to the rating chain members or through personal discussions, which never happened. Finally, the CO stated that he echoed the applicant's comments throughout his application for relief. The CO alleged that there are a lot of factual inaccuracies and unsubstantiated conclusions included in the Reviewer's comments that contradict the findings of the administrative investigation.

VIEWS OF THE COAST GUARD

On October 20, 2020, a Judge Advocate (JAG) 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 PSC.

The JAG argued that the applicant failed to provide sufficient evidence to meet the standard for correction to an OER. The JAG explained that under *Hary v. United States*², the applicant must do more than merely allege or prove that an error seems inaccurate, incomplete, or subjective in some sense, but must demonstrate, by competent evidence that (1) a misstatement of significant hard fact is present; (2) there was a clear violation of specific objective requirement of statute or regulation; or (3) factors adversely affecting the ratings which had no business being in the rating process were present.

In the applicant's case, the JAG argued that the applicant has not alleged a misstatement of a significant hard fact, nor has he provided evidence of such. Regarding the applicant's contentions that the Reviewer's comments were not supported by the investigating officer's opinions and recommendations, the JAG argued that administrative investigations serve as a summary of relevant facts and possible disciplinary actions for the benefit of the convening authority. According to the JAG these reports are not statements of final action but are recommendations for final actions. In this case, the JAG argued that it is not an error that the Reviewer's comments did not mirror the investigating final report's recommendations, because the Reviewer based her comments on the final report, the post-incident assessment made by the subsequent Acting CO, and the Ready for Sea (RFS) evaluation, which was conducted immediately after the collision.

The JAG argued that the applicant did not present a clear violation of OER policy to support the second *Hary* factor. According to the JAG, the nature of the commentary permitted the Reviewer is similar to that of the other rating chain members. The JAG explained that Articles 4.E.2.h.1. and 4.F.3.a. and d. of the Office Evaluation Systems Procedures Manual, PSCINST M1611.1D, allows the supervisor to draw on "observations" and "other information" and the

² *Hary v. United States*, 223 Cl. Ct. 10, 618 F.2d. 704, 708 (1981).

Reporting Officer (RO) to provide “Judgment.” In addition, the JAG argued that the judicial system has recognized that the evaluation system is not a clinically objective one.³ The JAG stated that as shown in a declaration attached to his memorandum, the OER Reviewer continues to stand by comments and lists those materials that timely supported her observations.

The JAG also noted that the applicant failed to take key procedural steps afforded by policy to challenge his OER, such as submitting a ROO reply or applying to the Personnel Records Review Board (PRRB). The JAG argued that the applicant’s failure to timely protest the language of his OER and to apply for the administrative remedies available to him is substantial evidence that when he received his OER in October of 2018, he accepted the validity of its comments, even if he did not agree with them. Accordingly, the JAG claimed that the second *Hary* prong is not implicated here as there is no clear violation of a specific objective requirement of a statute or regulation to establish that the Reviewer’s comments were unjust. As stated previously, the JAG argued that subjective observations and judgments are a part of the evaluation process and in keeping with the guidelines described by PSCINST M1611.1D.

Finally, the JAG argued that the applicant does call the third *Hary* prong into question because there are no adverse factors which had no business being in the rating process. The JAG stated that the Reviewer’s comments reflect the analyses of the available reports, which indicated systematic failures onboard the applicant’s cutter that culminated in the emergent situation on May 15, 2018. The JAG further stated that the applicant’s actions to mitigate the damage are certainly commendable, but he, as a member of the command cadre, also played a role in the vessel’s collision. According to the JAG, the Reviewer’s comments express the weight of the applicant’s responsibility in the collision.

To support his advisory opinion, the JAG submitted the following documents:

- A May 28, 2020, sworn declaration from the applicant’s CO wherein he stated that he stands by the marks and comments he assigned the applicant on the disputed OER. The CO stated that he assigned marks that accurately captured the entirety of the applicant’s performance during the relevant marking period, including his actions leading up to, during, and after the May 15, 2018, collision. According to the CO, the marks and comments in the disputed OER are supported by the investigating officer’s final report.
- An October 19, 2020, sworn declaration from the applicant’s OER Reviewer, who was the District Chief of Operational Planning, wherein she stated that at the time of the collision, she was the CO’s District Supervisor and therefore, the OER Reviewer on the applicant’s rating chain. She affirmed the comments she made on the OER as the applicant’s Reviewer. She stated that her comments were based not only on the Mishap Investigation but also on considerations from the Ready for Sea (RFS) evaluation that was conducted immediately after the collision, as well as the Acting CO’s assessments. She argued that irrespective of the conclusions in the Mishap Investigation, the fact that the applicant’s failures contributed to the collision is clear. She further explained that she did not consult with the applicant’s CO because she did not ask him to change any of his marks or comments for

³ *Muse v. United States*, 21 Cl. Ct. 592, 605 (1990).

the applicant. Her own comments reflected her evaluation based upon reliable sources regarding whether the applicant performed well as the XO and should have a follow-on tour in a leadership position. She stated that she stands by her assessment. She also noted that her comments do not preclude the applicant from having a leadership role aboard a cutter in the future, after having the opportunity to demonstrate his ability to lead, which includes basic seamanship.

- An October 19, 2020, sworn declaration from the interim Acting CO of the applicant's cutter, who replaced the CO who was relieved for cause and signed the disputed OER. This CO, a Commander, explained that he assumed command of the applicant's cutter on June 29, 2019, at the direction of the District. The Commander further explained that he was the team lead for the RFS assessment, conduct on June 5, 2018, which the cutter failed. According to Commander, the failed RFS was the result of a steering casualty and the decision of the previous CO to grant crew liberty instead of executing the remaining underway drills through the weekend, once the steering casualty was corrected. He stated that he was the applicant's direct supervisor from June 29, 2018, until he was officially relieved as the interim CO on July 6, 2018. The Commander reaffirmed his statements made to District staff during the interim command period. He explained that during his time as the applicant's cutter's RFS team lead and interim CO, he identified several safety concerns requiring immediate correction including unresolved engineering casualties, gaps in crew training, a lack of aids-to-navigation discrepancy oversight, outdated shipboard instructions, and poor bridge navigation practices. The Commander argued that while the majority of the responsibility for the collision lies with the relieved CO, the applicant's lack of leadership and complacency directly contributed to his cutter's collision and failed RFS. According to the Commander, the applicant's failure to advise his relieved CO of poor navigational practices elevated the risk of operating the cutter at sea and placed the lives of the crew in jeopardy.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 16, 2020, the Chair sent the applicant a copy of the Coast Guard's advisory opinion and invited him to respond within thirty days. The applicant submitted his response on November 20, 2020.

In his response, the applicant alleged that comments in the Reviewer's block of the OER were based on one incident that took place in 90 minutes of one day, during his 365-day rating period, which was July 1, 2017, through June 30, 2018. The applicant stated that based on the Reviewer's own statement, she reported to his District in June 2018, at most, covering 30 days of his evaluation period. The applicant alleged that the Reviewer's comments were completely contradictory to the CO's marks and violated Article 4.E.2.j. of PSCINST M1611.1D.⁴ The

⁴ Article 4.E.2.j. of the Officer Evaluation System Procedures Manual states, "Comments should amplify and be consistent with the numerical evaluations (if applicable). They should identify specific strengths and weaknesses in performance. Comments must be sufficiently specific to accurately portray the officer's performance and qualities which compares reasonably with the standards defined and marked on the performance dimensions in the evaluation area. Mere repetition or paraphrasing of the standards is not sufficient narrative justification for below or above standard marks.

applicant further alleged that the Reviewer failed to carry out her duties under Article 5.B.3. of PSCINST M1611.1D, when she did not discuss or try to resolve her inconsistent comments with his CO.

The applicant claimed that the Reviewer observed his performance for at most 30 days, yet Article 8.C.2. of PSCINST 1611.1.D, defines a sufficient amount of time to observe an officer as 184 days on an annual schedule.⁵ According to the applicant, without an adequate amount of time to personally observe the member, the Reviewer needs to rely upon input from others who observed him over this timeframe. However, the applicant alleged that rather than consulting with his existing rating chain (the CO) who observed him over the whole 365-day period to resolve discrepancies and ensure a fair and accurate evaluation, she relied upon the Mishap Report, an RFS Evaluation, and comments from a temporary supervisor, who was only in his rating chain for two days of the evaluation period.

The applicant explained that the CO of the cutter was his direct supervisor from June 13, 2016, through June 29, 2018, but the interim CO, whom the Reviewer consulted, was directed by his District to assume temporary command of his cutter on June 29, 2018, one day before the end of his performance period. The applicant argued that in accordance with Article 8.C.2. of reference PSCINST M1611.1D, a change in Reporting Officer requires an OER be completed. The applicant alleged that the interim CO was the cutter CO for eight days and only two of those days fell within the rating period. Regardless, the applicant alleged that the CO's opinions that "the Executive Officer's lack of leadership and complacency directly contributed to the [applicant's vessel] mishap and failed Ready for Sea Assessment" are egregious since he was not part of the mishap investigation and any opinions/assessment formed as the cutter's interim CO should be outside this marking period. According to the applicant, the interim CO cites him for "poor bridge navigation practices," but the interim CO never observed his cutter's underway routine or practices until July of 2018, after his period of performance had ended.

The applicant alleged that his OER, when read from beginning to end, is clearly shocking and unjust. He claimed that the Reviewer's comments did not align with the rest of his OER and were based on an investigative report that actually commended his actions, in addition to the opinions of an interim CO whose observations took place outside of the rating period. According to the applicant, the Reviewer clearly knew her evaluation of his performance was significantly different than his CO's, but chose not to consult with the CO to try and resolve the discrepancies or inconsistencies as required by policy.

The applicant argued that proving a nexus between the Reviewer's comments and his non-selection to CWO3 is impossible because selection board deliberations are confidential, and their specific notes and discussions are shredded at the conclusion of the board. The applicant alleged

⁵ Article 8.C.2. of the Officer Evaluation System Procedures Manual, PSCINST M1611.1D, states, "Change of the Reporting Officer. A detachment/change of Reporting Officer OER is due when a Reported-on Officer's Reporting Officer detaches from the unit or changes. A detachment/change of Reporting Officer OER submission is optional if the current Reporting Officer has observed the Reported-on Officer for an insufficient amount of time (e.g., Reported-on Officer recently completed a PCS to the unit). A sufficient amount of time is 184 days for officers on annual OER submission schedule and 92 days for officers on semiannual OER submission schedule. Select Detachment/Change of RO on the CG-5310 (series) for occasion of report.

that administratively, the Coast Guard makes it impossible to prove a direct link between his Reviewer's comments and his non-selection for promotion.

Regarding the administrative investigation into his cutter's collision, the applicant argued that he was not given any formal discipline in the form of a negative Page 7 or a Letter of Censure. The applicant argued that Coast Guard officials are given the presumption of regularity, and because of that presumption, it should be presumed that his CO already incorporated the administrative investigation's final determinations when he assigned the high marks and comments in the disputed annual OER.

APPLICABLE LAW AND POLICY

Article 5 of The Coast Guard Officer, Accessions, Evaluations, and Promotions Manual, COMDTINST M1000.3A, provides the following guidance on the Officer Evaluation System (OES):

Article 5.A. Overview. This Chapter states policies and standards for conducting performance evaluations for Coast Guard officers.

1. Purpose. The Officer Evaluation System documents and drives officer performance and conduct in accordance with Service values and standards. This information is used to support personnel management; primarily selection boards and panels, retention, and assignments.

...

Article 5.I. Prohibited Comments. The rating chain must not:

1. Mention a judicial, administrative, or investigative proceeding, including criminal and non-judicial punishment proceedings under the Uniform Code of Military Justice, civilian criminal proceedings, Personnel Records Review Board (PRRB), Coast Guard Board for Correction of Military Records (BCMR), or any other investigation (including discrimination investigations) except as required by a non-regular OER. Referring to the fact conduct was the subject of a proceeding of a type described above is permissible when necessary to respond to issues regarding that proceeding first raised by an officer in a reply under Article 5.K. of this Manual. These restrictions do not preclude comments on the conduct that is the subject of the proceeding. They only prohibit reference to the proceeding itself.

...

5.J. Required Comments.

1. The rating chain must support any mark of 1, 2, 3, and 7. Comments with 4, 5, or 6 do not require support.

The Coast Guard Officer Evaluation System Procedures Manual, PSCINST M1611.1D, provides the following guidance on OER rating chains and comments:

Article 1.A. The Rating Chain. The rating chain provides the assessment of an officer's performance and value to the Coast Guard through a system of multiple evaluators and Reviewers who present independent views and ensure fairness, accuracy and timeliness of reporting. It reinforces decentralization by placing responsibilities for development and performance evaluation at the lowest levels within the command

structure. The rating chain consists of the Reported-on Officer, the Supervisor, the Reporting Officer, and the Reviewer (if applicable).

...

Article 1.A.4. Reviewer.

a. Designation. The Reviewer is normally the Supervisor of the Reporting Officer. While the Supervisor and Reporting Officer are specific individuals, the Reviewer is a position designated by competent authority, which in certain circumstances may be junior to the Reporting Officer. The officer occupying that position has a definite OES administrative function and may perform an evaluative function.

...

b. Responsibilities. The Reviewer shall:

1. Ensure the OER reflects a reasonably consistent picture of the Reported-on Officer's performance and potential.
2. If necessary, add comments, using the Reviewer Comments block on Form CG-5310 (series). These comments should only be submitted to comment on performance and/or potential which is significantly different than the Supervisor or Reporting Officer. These comments can be positive or negative in nature.

Article 5.B. Reviewer Comments, CG-5310A and CG-5310C.

1. When the Reviewer has observed performance or potential that is significantly different from the Supervisor and/or the Reporting Officer, they can select 'Comments regarding performance and/or potential significantly different than Supervisor or RO'. This will open a five line block for the Reviewer to comment on this difference. This five line block will not be visible if 'Concur' is selected by the Reviewer.

2. The Reviewer adds comments, which further address the performance and/or potential of the Reported-on Officer that is significantly different from the Supervisor or Reporting Officer.

a. Example: Although the Reported-on Officer is a stellar performer, the above evaluation is likely inflated due to the nature of the rating chain being unfamiliar with the Coast Guard OES.

b. Example: This officer's performance specifically relating to the investigation of the COSTA CONCORDIA incident warrants highlighting as the member was regarded as the top CG representative during this international high profile event.

3. The Reviewer may explain or reconcile discrepancies or conflicts reflected in the completed report, if these inconsistencies cannot be resolved by returning the report to the concerned rating chain members or through personal discussions.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction over this matter under 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 requested an oral hearing before the Board. The Chair, acting pursuant to 33 C.F.R. § 52.51, denied the request and recommended disposition of the case without a hearing. The Board concurs in that recommendation.⁶

3. The application was timely filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).

4. The applicant alleged that his Reviewer's comments on his July 1, 2017, through June 30, 2018, OER were erroneous and unjust because she did not abide by policy when entering the comments on his OER. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in the military record, and the applicant bears the burden of proving, by a preponderance of the evidence, that the disputed information is erroneous or unjust.⁷ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."⁸ Moreover, to be entitled to correction of an evaluation, the applicant cannot "merely allege or prove that an [evaluation] seems inaccurate, incomplete or subjective in some sense," but must prove that the disputed evaluation was adversely affected by a "misstatement of significant hard fact," factors "which had no business being in the rating process," or a prejudicial violation of a statute or regulation.⁹

5. **Designation of Reviewer.** The applicant alleged that his OER Reviewer served improperly because she did not observe his performance in person and was not his OER Reviewer during the reporting period for the OER. However, Article 1.A.4.a. of the Coast Guard Officer Evaluation System Procedures Manual, PSCINST M1611.1D, states that "[w]hile the Supervisor and Reporting Officer are specific individuals, the Reviewer is a position designated by competent authority, which in certain circumstances may be junior to the Reporting Officer. The officer occupying that position has a definite OES administrative function and may perform an evaluative function." There is no requirement for in-person observation or even for presence during the reporting period. The applicant has not proven by a preponderance of the evidence that his OER Reviewer, the District Chief of Operational Planning, was improperly designated.

6. **Inconsistency with Language in Investigating Officer's Report.** The applicant alleged that his OER Reviewer erroneously included comments on his OER that were inconsistent with the findings of the Investigating Officer. The record shows that on May 15, 2018, the applicant's cutter collided with a private yacht while navigating through fog. The record further shows that after the collision, an administrative investigation was initiated, which revealed that the

⁶ *Armstrong v. United States*, 205 Ct. Cl. 754, 764 (1974) (stating that a hearing is not required because BCMR proceedings are non-adversarial and 10 U.S.C. § 1552 does not require them).

⁷ 33 C.F.R. § 52.24(b).

⁸ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁹ *Hary v. United States*, 618 F.2d 704, 708 (Ct. Cl. 1980), cited in *Lindsay v. United States*, 295 F.3d 1252, 1259 (Fed. Cir. 2002).

applicant's vessel encountered a fog bank that reduced visibility to 100 yards. During this time, the record shows that the applicant's vessel broke-out the low visibility checklist, but never completed it and never announced low visibility detail of the ships 1 Main Circuit (1MC). In addition, the applicant's vessel did not engage its navigation lights as required by policy. The Investigating Officer summarized these facts by stating, "In effect, [applicant's vessel] was never "manned and ready" for low visibility detail. Finally, the investigation revealed that the applicant's vessel's radar reported multiple "ghost contacts" off the bow, but never reduced speed to assess these contacts, despite the low visibility in a common high traffic area. Both the CO and XO were on the bridge during this period.

The Investigating Officer found that prior to the collision, there was a loss of situational awareness amongst the bridge personnel and no action was taken by those on the bridge to mitigate the potential for real contacts. According to the Investigating Officer, the speed of the applicant's vessel, coupled with its limited visibility and unknown "ghost contacts," was unsafe and increased the chance of a likely collision. He found that had the applicant's vessel reduced speed at any point during her transit on the morning of May 15, 2018, the collision could have been avoided. In addition, the Investigating Officer did not report any disagreement about the cutter's speed or handling between the CO and XO or that the XO ensured that the cutter was following safety procedures before the yacht came within sight.

Therefore, the preponderance of the evidence shows that the applicant, in his role as the cutter's XO, failed to adequately ensure the safety of the cutter. The preponderance of the evidence further shows that no action was taken by the bridge personnel to mitigate the potential for a collision, and various actions that should have been taken but were not could have prevented the collision. Although the CO was present, his presence did not absolve the XO of acting responsibly and ensuring that safety procedures were being followed in the fog. And although the applicant's last-minute orders helped to prevent a worse collision, that does not negate his failure to ensure that safety procedures were being followed prior to that moment. Finally, the preponderance of the evidence shows that none of these facts was mentioned by the applicant's CO in the applicable OER. Given that the disputed OER contains extremely high marks of 6 and 7 in all performance categories, it appears to the Board that the CO decided to claim sole responsibility for the collision so that it would damage only his own career and so prepared an OER for the applicant that essentially ignored his deficiencies prior to the collision as an XO on the bridge. The record further shows that upon reviewing the OER, the Reviewer ensured that the applicant's role in the May 15, 2018, collision was adequately addressed.

7. **Inconsistency with CO's Evaluation.** Under Article 1.A.4. of the Coast Guard Officer Evaluation System Procedures Manual, PSCINST M1611.1D, the Reviewer "[e]nsure[s] the OER reflects a reasonably consistent picture of the Reported-on Officer's performance and potential, and if necessary add[s] comments, using the Reviewer Comments block on Form CG-5310 (series). These comments should only be submitted to comment on performance and/or potential which is significantly different than the Supervisor or Reporting Officer. These comments can be positive or negative in nature." Finally, Article 5.B.3. of the PSCINST M1611.1D states, "The Reviewer may explain or reconcile discrepancies or conflicts reflected in the completed report, if these inconsistencies cannot be resolved by returning the report to the concerned rating chain members or through personal discussions." Accordingly, the Reviewer is

not only permitted by Coast Guard policy to perform an evaluative function but obligated to ensure that an OER reflects a reasonably consistent picture of the ROO's performance and potential. Of course, normally, the Reviewer is reviewing an OER prepared by two different officers serving as the Supervisor and Reporting Officer and so is ensuring reasonable consistency in the evaluations of those two officers. In this case, the CO served as both the Supervisor and Reporting Officer and so there is no inconsistency between those two parts of the OER.

But does the Reviewer's role in ensuring consistency mean that the Reviewer was not allowed to add comments disagreeing with the CO's evaluation of the applicant? Decidedly not. Article 1.A.4.b.2. of PSCINST M1611.1D states that a Reviewer's "comments should only be submitted to comment on performance and/or potential which is significantly different than the Supervisor or Reporting Officer. These comments can be positive or negative in nature." Therefore, a Reviewer may only add comments if they reflect on performance or potential that is significantly different from what is reflected in the evaluations of the Supervisor and RO. In this case, the Reviewer properly fulfilled that role. Therefore, the Board finds that the applicant has failed to prove, by a preponderance of the evidence, that the Coast Guard Reviewer erred when she added comments to his July 1, 2017, through June 30, 2018, OER that reflected significantly different performance and potential than the performance and potential reflected in the Supervisor's and RO's parts of the OER, which were prepared by the CO.

8. **Lack of Dialogue with the CO.** The applicant alleged that the Reviewer's comments were erroneous because she was required by policy to engage in dialogue with his CO, knowing that her comments were significantly different from the RO's. The Board disagrees. PSCINST M1611.1D states that the Reviewer "may" explain or reconcile discrepancies or conflicts reflected in the completed report if these inconsistencies cannot be resolved by returning the report to the concerned rating chain members or through personal discussions. The applicant contends that the Reviewer was obligated by policy to engage in dialogue, but his contentions are misplaced. The policy relied upon by the applicant uses permissive language and does not state that the Reviewer must engage in dialogue with the Supervisor or RO before adding significantly different comments.

9. **Alleged Reliance on Performance Outside of the Reporting Period.** The applicant alleged that the Reviewer relied upon facts and information that took place outside of the annual rating period to support her comments. According to the applicant, the Reviewer relied upon opinions and observations from his cutter's interim CO, but that CO reported to the cutter two days before the end of his rating period, and only observed the cutter's navigation practices after the rating period had passed. Once again, the Board finds the applicant's arguments unpersuasive. The sworn declaration provided by the Reviewer shows that she relied on multiple sources of information to arrive at her conclusion that the applicant's failures as the cutter's XO contributed to the May 15, 2018, collision. The preponderance of the evidence shows that the Reviewer relied upon the Mishap Investigation and the Ready for Sea evaluation, which were conducted during the reporting period, in addition to the assessment of the interim Acting CO, who had been the team lead for the RFS that immediately followed the collision and had therefore observed the applicant's performance aboard during the reporting period. The evidence, as submitted by the Coast Guard, supports the Reviewer's comments. Therefore, the Board finds that the applicant has failed to prove, by a preponderance of the evidence, that the Coast Guard

Reviewer relied upon performance and evaluations that took place outside of the rating period. His request for relief should be denied.

10. The applicant has also failed to show that the disputed evaluation was adversely affected by a “misstatement of significant hard fact,” factors “which had no business being in the rating process,” or a prejudicial violation of a statute or regulation, as required under *Hary*.¹⁰ Therefore, the applicant has failed to prove, by a preponderance of the evidence, that the Reviewer comments in his OER for the rating period of July 1, 2017, through June 30, 2018, are erroneous or unjust. His requests for relief should therefore be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

¹⁰ *Hary*, 618 F.2d at 708.

ORDER

The application of CWO2 [REDACTED] [REDACTED] [REDACTED] USCG, for correction of his military record is denied.

April 11, 2023

[REDACTED] [REDACTED] Digitally signed by [REDACTED]
[REDACTED] [REDACTED] Date: 2023.05.10 10:45:54 -04'00'

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[REDACTED] [REDACTED] Digitally signed by [REDACTED]
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