

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2005-044

[REDACTED]

FINAL DECISION

[REDACTED]

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application on January 5, 2005, upon receipt of the applicant's completed application and military records.

This final decision, dated September 22, 2005, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant asked that his military record be corrected to "(1) indicate his total time in service as no less than 20 years and 9 days; (2) reflect his statutory retirement no earlier than March 2, 1973; (3) designate his schizophrenia and diabetes as combat-related; and (4) designate [the applicant] as eligible for CRSC [Combat-Related Special Compensation]." ¹

¹ Section 1413a. (Combat-Related Special Compensation) of title 10 of the United States Code provides for the following:

(a) Authority. The Secretary concerned shall pay each eligible combat-related uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

(b) Amount. (1) Determination of month amount. Subject to paragraphs (2) and (3), the monthly amount to be paid an eligible combat-related disabled uniformed services retiree under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability for the retiree that is not a combat-related disability.

On December 23, 1972, the applicant was placed on the temporary disability retirement list with a 70 percent disability rating for "Schizophrenic Reaction, Paranoid Type: Severe Impairment of Social and Industrial Adaptability." At that time he was 2 months and 9 days shy of having 20 years of active duty, which would have made him eligible for a retirement by reason having served 20 years on active duty.

APPLICANT'S ALLEGATIONS

The applicant presented the following three issues for the Board's consideration:

1. The Coast Guard improperly deprived the applicant of his statutory retirement when it medically retired him on December 23, 1972.
2. The applicant incurred his disability in the Armed Conflict of Vietnam.
3. The applicant is entitled to combat-related special compensation.

Issue one is no longer a matter of contention between the parties. The Coast Guard in the advisory opinion (discussed below) admitted error in this regard and recommended that the applicant's record be corrected to show that that he was placed

(2) Maximum amount. The amount paid to an eligible combat-related disabled uniformed services retiree for any month under paragraph (1) may not exceed the amount of the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of title 38.

(3) Special Rules for Chapter 61 disability retirees. In the case of an eligible combat-related disabled uniform service retiree who is retired under chapter 61 of this title [10 USCS §§ 1201 et seq.], the amount of payment under paragraph (1) for any month shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title . . . exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title . . .

(c) Eligible retirees. For purposes of this section, an eligible combat-related disabled uniform services retiree referred to in subsection (a) is a member of the uniformed services entitled to retired pay who--(1) has completed at least 20 years of service in the uniformed services that are creditable for purposes of computing the amount of retired pay to which a member is entitled to retired pay under section 12731 of this title . . . (other than by reason of section 12731b of this title . . . (2) has a combat-related disability.

(d) Procedures. The secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related uniform services retiree. Such procedures shall apply uniformly through out the Department of Defense.

on the TDRL on March 5, 1973, and that he retired with 20 years 00 months and 00 days of active duty service.

Issues two and three are related in that the applicant seeks CRSC for schizophrenia and diabetes. According to the applicant, the FY 2003 DoD Authorization Act made CRSC available to retirees with 20 years of service and who are rated at least 60% disabled "because of armed conflict, hazardous duty, training exercises, or mishap compensation." (This law has since been revised to make CRSC available to most 20-year retirees who are receiving compensation from the DVA for disabilities that are either Purple Heart or combat-related and rated to be at least 10% disabling.)

The applicant argues that his schizophrenia and diabetes are combat-related. In this regard, he argued that his schizophrenia developed during his command tour in Vietnam. He further argued that "[w]hether his schizophrenia was triggered by the chemical sprayed on Con Son just months before its onset . . . or the pressures of his command . . . that his 20-day hospitalization for 'schizophrenic reaction chronic' was caused by his war time duty in Vietnam."

With respect to his diabetes, the applicant argued that it is also combat related. He stated that the 2000 DVA rating decision recognized that his diabetes was service-connected because of his Vietnam combat-service and the presumption that Type II diabetes is caused by herbicide exposure during service in Vietnam. He stated that he was first diagnosed with "diabetes on glucose tol[erance] tests" shortly after he returned from Vietnam. He further stated that even though the Coast Guard and the DVA ignored his diabetes for almost 30 years, his diabetes-related disability was clearly caused by his wartime service in Vietnam.

The applicant argued that he is entitled to CRSC because he has shown that his schizophrenia is combat related and is 70% disabling. He further argued that his diabetes II, which the DVA has rated as 20% disabling, is also combat-related, and when taken together with the 70% disability rating for schizophrenia, he has a 90% armed-conflict-related disability.

SUMMARY OF THE MILITARY RECORD²

The applicant enlisted in the Massachusetts National Guard on February 14, 1949, and served in that organization for 1 month and 27 days. The applicant was honorably discharged from the National Guard on April 10, 1949, so that he could

² The Board developed this portion of the decision from the applicant's statement of facts and supplemented it as necessary from the military record.

immediately enlist in the Coast Guard for three years under a special temporary enlistment.

The applicant enlisted in the Coast Guard on April 11, 1949, and served for 1 year and 27 days. He was honorably discharged from this enlistment to enroll as a cadet at the Coast Guard Academy. After four years at the Academy, he was commissioned as an ensign. The applicant stated that in 1954, the Coast Guard calculated his total active service, including his prior active National Guard service to be 1 year, 10 months, and 7 days. However, a letter dated November 24, 1959, from the Commandant to the applicant about the date on which the applicant would be eligible for a 30-year retirement stated, "Massachusetts National Guard is not creditable service in as much as there is no record of being called into Federal service during that period of your service."

After being commissioned in the regular Coast Guard, the applicant was regularly promoted reaching the rank of commander (CDR) in 1967. Earlier on August 20, 1966, during the Vietnam War, the applicant reported as the first commanding officer (CO) of LORAN Transmitting Station, Con Son Island, Vietnam. The applicant stated that during this tour, the 44th Medical Brigade, U.S. Army, "conducted a Malaria Spray Evaluation Program on Con Son Island." He stated that in April 1967 four months after the spray was completed, he was admitted to the hospital for 29 days, where he was diagnosed as suffering from "schizophrenic reaction chronic." He stated that the physicians noted that his illness arose in the line of duty due to the stress of commanding an isolated unit in Vietnam. He further stated that his rating chain stated in an OER covering the pertinent period that "[the applicant] suffered a borderline breakdown" which was due to "mental exhaustion" because the applicant " who takes himself and his job very seriously, had been through a very trying period; building organizing and operating his station *in a war zone.*" [Emphasis in original.]

In September 1967, the applicant reported to Coast Guard Headquarters for duty and in December 1967 he was promoted to Commander (CDR). The applicant stated that he exhibited above average performance until 1969 when his performance began to decline. In 1971, his reporting officer wrote the following comments in the applicant's fitness report:

His immediate supervisor, a civilian, reported constant difficulty getting [the applicant's] cooperation. I took several opportunities to explore this matter personally, and had the same experience. Efforts to convey direction verbally were rarely effective. Efforts to elicit reasons for not following direction recommended typically resulted in either long discussions about "other factors" which it turned out had no immediate bearing, or in the *discovery that [the applicant] thought "someone " else, another element or organization should do that, not he or his organization.* In

other words, to get him to do a job (other than the few he wanted to do), was just not possible unless detailed instructions were furnished in writing or a direct order was delivered with witnesses present.

The applicant stated that in 1970 he was diagnosed with diabetes, which was treated by diet. He stated that in 1971 he had 17 years, 11 months of creditable Coast Guard service and 1 month and 27 days of National Guard service.

In June 1971, the applicant was assigned to duty as CO of a cutter, which was decommissioned in January 20, 1972. He stated that in March two crewmembers of the cutter accused the applicant of making homosexual advances toward them. In response, the Commandant directed the applicant to show cause for retention due to moral dereliction before a Board of Inquiry (BI).

Prior to considering the applicant's case, the BI directed that the applicant undergo a psychiatric evaluation. The psychiatrist reported that the applicant did not suffer from any mental disease or defect. The BI was not satisfied with this evaluation and ordered the applicant to undergo a second psychiatric evaluation.

The applicant underwent a second psychiatric evaluation and on September 18, 1972, the psychiatrist issued a report stating that the applicant suffered from "Schizophrenia, Paranoid Type." On September 25, 1972, a Medical Board (MB) found that the applicant suffered from "Schizophrenia, Paranoid Type" and recommended that the applicant appear before a Physical Evaluation Board (PEB) (known as the Central PEB). The applicant acknowledged the findings of the MB on September 25, 1972.

On October 24, 1972, a PEB (Physical Evaluation Board)³ found him unfit for duty and recommended his placement on the temporary Disability Retirement List (TDRL) with a 70% disability rating. A copy of the PEB in the applicant's military record provided the following explanatory note: "Final action will be taken on this case after completion of 20 years service." On the same date as the PEB report, the Commandant in a letter to the Commander, Third Coast Guard District and to the applicant stated in paragraph 5. that final action on the case would be taken after the applicant completed 20 years of active service. Diabetes in not mentioned in the PEB report.

³ The Physical Disability Evaluation System (PDES) consist of several boards, namely, the medical board, the central physical evaluation board (CPEB), the Formal Physical Evaluation Board (FPEB), and the Physical Review Counsel (PRC). The PEB board mentioned here refers to the CPEB, which Board is a permanently established administrative body convened to evaluated on a records basis the fitness for duty of active and reserve members and the fitness for duty of members on the temporary disability retired list. See Chapter 4.A.1. of the Physical Disability Evaluation System Manual (COMDTINST M1850.2C).

The military record shows that the applicant received the PEB on November 9, 1972 and accepted the findings of the PEB⁴ and waived his right to a formal PEB (FPEB) hearing on November 10, 1972. The Commandant approved the PEB recommendation placing the applicant on the TDRL, effective December 23, 1972. The applicant stated that at the time of his placement on the TDRL, the Coast Guard calculated that he had 19 years, 9 months, and 22 days of active service. He also stated that he had 60 days of accrued leave, which he sold back to the Coast Guard. The applicant denied that he voluntarily elected to sell back leave, but rather he was directed to sign papers stating that he had elected to sell leave.

The applicant stated that in June 1973, he was admitted to a Veterans Administration [now the Department of Veterans Affairs (DVA)] hospital. The staff physician there determined that his condition was "consistent with an acute schizophrenic reaction-paranoid type." He was treated with medication and discharged. He stated that in November 1973, the VA rated his disability as 70% disabling.

In March 1977, approximately five years after being placed on the TDRL, the CPEB reviewed the applicant's case and reaffirmed the diagnosis of "schizophrenia, paranoid type - severe impairment of social and industrial adaptability" as 70% disabling. The CPEB recommended the applicant's permanent retirement. The Commandant approved the CPEB's recommendation and the applicant was permanently retired due to schizophrenia with a 70% disability rating. The CPEB did not mention diabetes.

The applicant stated that the Department of Veterans Affairs evaluated him on September 29, 1999. At that time, the DVA maintained the 70% disability rating but also found that the applicant suffered a hearing loss, which it rated as 40% disabling for a combined disability rating of 80%. The DVA evaluation did not include any disability rating for diabetes.

The applicant stated that the DVA adjudged him 20% disabled due to Type II diabetes for the first time on February 6, 2002. The DVA also noted that his hypertension and chronic renal insufficiency were also service-connected.

VIEWS OF THE COAST GUARD

⁴ The applicant submitted a copy of the PEB taken from his DVA file, a copy of which is also in the military record, showing that he accepted the PEB findings on December 10, 1972. There is no explanation for why this date for the applicant's acceptance of the PEB findings is different from the November 10, 1972 date of acceptance or why the explanatory note was not included on this later PEB report.

On May 23, 2005, the Judge Advocate General of the Coast Guard submitted an advisory opinion. He noted that the applicant's request was untimely but recommended that the Board consider it and grant the partial relief recommended by Commander, Coast Guard Personnel Command (CGPC) in a memorandum attached as Enclosure (1) to the advisory opinion.

CGPC recommended that the Board grant partial relief by correcting the applicant's record to show that on March 5, 1973 (instead of December 23, 1972), he was placed on the TDRL with 20 years of active service. On the issue of CRSC, he recommended that the applicant apply to the appropriate Coast Guard office for a decision on his entitlement to CRSC once his record is corrected.

CGPC stated that retiring the applicant on December 22, 1972, was not the most appropriate decision and may have been in error. He noted that the applicant's CPEB contains several key contradictions, as follows:

- a. On October 24, 1972, the CPEB stated that final action on the applicant's case would be taken after 20 years of service had been completed. There is no formal record of any requested alteration to this recommendation. Additionally there is no record of subsequent recommendation made by a board containing the signatures of the board or any authorized Coast Guard official.
- b. The document [from the Commandant] directs that the Applicant be retired on December 23, 1972. However, any alteration from the CPEB original recommendation would have required the acceptance of the Applicant and if that recommendation was to separate prior to the completion of 20 years of service, the CPEB would have been required to append to any unfit for continued service finding a specific opinion as to whether or not the member meets the medical requirements for retention.
- c. There is no record that the Applicant was informed of the alteration in the CPEB findings. It is reasonable to assume that if the Applicant was aware of the alternations and the CPEB appended to it [a] recommendation for a specific option as to whether or not the member met the medical requirement for retention, such as alternation would have triggered the applicant to request to be retained and accept the CPEB findings conditional upon approval of the retention request.

CGPC stated that he found the alteration in the findings and recommendations of the CPEB was unauthorized and deprived the applicant of his full due process under the Coast Guard Physical Disability Evaluation System. Therefore, he recommended the correction of the applicant's record to show he completed 20 years of active duty.

However, CGPC stated it could not recommend that the applicant's record be corrected to reflect unevaluated eligibility to CRSC benefits. CGPC encouraged the applicant to apply to the appropriate Coast Guard office for a determination of entitlement to CRSC.

With respect to the applicant's National Guard service, CGPC stated that it was not creditable because there was no record showing that he was called into federal service during the time spent in the National Guard.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 1, 2005, the Board received the applicant's reply to the views of the Coast Guard. He stated that he was grateful for the Coast Guard's recognition that his record should be corrected to reflect placement on the TDRL effective March 5, 1973. He stated that he hoped the Board could address his request that his schizophrenia and diabetes be designated as combat-related. The applicant further stated:

The advisory opinion does not directly address this other than asserting without explanation, that "we cannot recommend altering his record to reflect unevaluated eligibility to [sic] benefits" . . . In addition it is [the applicant's] understanding that [he] is entitled to have his service in the Massachusetts National Guard counted for retired pay longevity purposes, even if it is not counted for retirement eligibility purposes.

On June 3, 2005, the Board received a further response from the applicant in which he stated, "[H]is diabetes is pertinent not only to the combat-related issue, but also to his conventional disability retirement percentage. That percentage is 70%; it should be increased to take account of the diabetes."

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 submissions, 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 applicant requested an oral hearing before the Board. The Chair, acting pursuant to 33 C.F.R. § 52.31, denied the request and recommended disposition of the case without a hearing. The Board concurs in that recommendation.
3. The applicant's request for corrections to his record showing that he had the necessary 20 years of service for a regular retirement and to have his diabetes included

in his Coast Guard disability rating are not timely. To be timely, an application or request for correction of a military record must be submitted within three years after the applicant discovered or should have discovered the alleged error or injustice. See 33 CFR 52.22. The applicant was placed on the TDRL with less than 20 years of active service for schizophrenia, not diabetes, in December 1972 and permanently retired with less than 20 years of service due to schizophrenia, not diabetes, in 1977. His application with respect to these issues should have been filed three years after his 1972 placement on the TDRL or at least three years after his 1977 placement on the permanent disability retired list.

4. However, the Board may still consider the application on the merits, if it finds it is in the interest of justice to do so. In Allen v. Card, 799 F. Supp. 158, 164 (D.D.C. 1992), the court stated that in assessing whether the interest of justice supports a waiver of the statute of limitations, the Board "should analyze both the reasons for the delay and the potential merits of the claim based on a cursory review." The court further instructed that "the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review." Id. at 164, 165. See also Dickson v. Secretary of Defense, 68 F.3d 1396 (D.C. Cir. 1995).

5. The applicant stated that he discovered the alleged error on December 12, 2002, which was about the time Congress enacted the CRSC law. The alleged errors with respect to his retirement existed at the time of his 1972 placement on the TDRL and the applicant should have discovered them much earlier or at least by the time he was placed on the permanent disability retired list in 1977. In this regard, the applicant never stated that he was not aware that he had been medically retired with less than 20 years of active of service or that schizophrenia was the only condition the PEB found to be unfitting for continued military service. However, the Board finds that it is in the interest of justice to waive the statute of limitations and consider the application on the merits for the following reasons. (a) The Coast Guard has recommended that the Board consider the application and correct the applicant's record to show that he had 20 years of service and that he was placed on the TDRL on March 5, 1973. (b) Congress did not enact CRSC, which is the reason for this application, until December 2002. Therefore, the requirement of having 20 years of active service to be eligible for compensation under CRSC could not have been known earlier than December 2002. To deny this application on the basis of untimeliness would defeat this applicant's claim for CRSC because his military record would show that he has less than 20 years of active service. Such a result here would be an injustice to this applicant because the Coast Guard has stated that he was probably retired unfairly approximately 2 months before he would have earned the 20 years of active duty. (c) The applicant continues to suffer from schizophrenia and may not have been able to act sooner.

6. The Coast Guard has admitted, and the Board finds, that it committed an error by discharging the applicant with less than 20 years of active service. In this regard, the

Coast Guard noted that the PEB recommended that final action not be taken on the applicant's disability retirement until after he had completed 20 years of service. Moreover, a October 24, 1972, letter from the Commandant to the applicant stated the same. Still, on December 23, 1972, the applicant was placed on the TDRL approximately two months short of having completed 20 years of active service, with no explanation for the change that was apparently based on the applicant's December 12, 1972 acceptance of the PEB findings, which did not include the explanatory note that he be allowed to complete 20 years of service. The advisory opinion called this action an unauthorized alteration of the original PEB findings and recommendation that deprived the applicant of his full due process under the Physical Disability Evaluation System. If the Coast Guard did not agree with the original PEB, particularly after the Commandant advised the applicant that no action would be taken until he completed 20 years of service, it should have returned the record to the PEB for reconsideration stating the reason therefore and it should have ensured that the applicant had counsel to advise him on any modified PEB recommendation. See Chapter of 4.C. of the Physical Disability Evaluation System Manual. Based upon our review of the military record, it did neither, and the failure to do so constituted error.

7. On the issue of the applicant's belief that his approximately 2 months of National Guard Service is creditable for longevity pay purposes, the Board refers both the applicant and the Coast Guard to the last statement of creditable service prepared by the Coast Guard prior to the applicant's disability retirement. It is dated January 1, 1973, and shows the applicant's National Guard service as creditable for pay purposes, while excluding it as creditable for retirement purposes. Therefore, the Board presumes that the Coast Guard properly included this period in calculating the applicant's pay, if required, and the applicant has offered no evidence to the contrary. Therefore a ruling by the Board on the issue would be premature. The Board notes, however, that Article 2.B.6. of the Pay Manual states that inactive National Guard service is not creditable, unless "a member held a commission or an enlisted status in the inactive National Guard and National Guard of the United States at the same time." A November 5, 1954 statement of creditable service issued by the Massachusetts National Guard, at the request of the Coast Guard, stated that the applicant served in the National Guard of the United States, which service was conterminous with inactive National Guard of the State of Massachusetts, and therefore may be creditable for purposes of longevity pay. Article 2.B.6. of the Pay Manual seems to indicate that for National Guard service to be creditable, an individual must be a member of the inactive National Guard as well as the National Guard of the United States. The regulation does not state that one must be called into federal service to have the time count for longevity pay purposes.

8. It is unclear whether the applicant is asking the Board to find that he should have received a disability rating from the Coast Guard for diabetes at the time of his 1972 placement on the TDRL. If that is the case, the Board finds that he has submitted

insufficient evidence that his diabetes caused or contributed to his unfitness for duty when he was placed on the TDRL in 1972. Chapter 2.A.38 of the Physical Disability Evaluation System (PDES) Manual defines physical disability as any manifest or latent physical impairment that separately makes or in combination make a member unfit for continued duty. Chapter 2.A.50. defines unfit for continued duty as the status of a member who is unable to perform the duties of office, grade, rank, or rating because of a physical disability. Chapter 2.C.2.f.i. makes clear that a member may have physical impairments ratable in accordance with the VASRD, but such impairments may not necessarily render the member unfit for military duty. Chapter 9.A.1.c. of the PDES directs that disabilities that are neither unfitting for military service nor contributing to the inability to perform military duty shall not be rated by the PEB.

9. Taking into consideration the provisions just discussed, it is the applicant's burden to prove that conditions other than those identified as disabling by the PEB caused him to be unfit or contributed to his unfitness for military duty, i.e. unable to perform the duties of his office, grade, rank, or rating. The May 25, 1970, medical evaluation is the only pre-retirement report offered by the applicant that mentions his diabetes. That report indicates that the applicant was diagnosed with "chemical diabetes on glucose tol[erance] tests ---under treatment by diet." It also stated that the condition was "NCD" (not considered disabling). Under Chapter 2.C.3.a.(3)(a) of the PDES Manual, the PEB rates only "those disabilities which make an evaluatee unfit for military service or which contribute to his or her inability to perform military duty." Nothing in the medical evidence offered by the applicant shows that his diabetes caused him to be unfit to perform the duties of his office, rank, and grade at the time of his 1972 placement on the TDRL or his 1977 placement on the permanent disability retired list. More telling is the fact that it was not until 2002 that the DVA determined that the applicant's diabetes was disabling and granted him a 20% disability rating for the condition, approximately 28 years after his disability retirement from the Coast Guard.

10. Although the applicant submitted evidence showing that the DVA found his diabetes to be 20% disabling in 2002, such evidence does not establish error by the Coast Guard. This Board has consistently held that a rating from the DVA does not of itself establish that the Coast Guard committed an error or injustice by not designating certain conditions as disabling. In Lord v. United States, 2 Cl. Ct. 749, 754 (1983), the Court of Federal Claims stated "[d]isability ratings by the Veterans Administration [now the Department of Veterans Affairs] and by the Armed Forces are made for different purposes. The Veterans Administration determines to what extent a veteran's earning capacity has been reduced as a result of specific injuries or combination of injuries. [Citation omitted.] The Armed Forces, on the other hand, determine to what extent a member has been rendered unfit to perform the duties of his office, grade, rank, or rating because of a physical disability. [Citation omitted.] Accordingly, Veterans'

Administration ratings are not determinative of issues involved in military disability retirement cases."

11. The Board will not, at this time, entertain that portion of the applicant's request for a correction to his record showing that his schizophrenia and diabetes are combat-related and therefore entitle him to CRSC. CRSC is a recent law and the Coast Guard has established an office within its Headquarters to make initial determinations of eligibility for and entitlement to CRSC for Coast Guard retirees. The Board agrees with the Coast Guard that the applicant, with a corrected record showing that he has earned 20 years of active duty, should apply to the appropriate Coast Guard office for a determination of his entitlement to CRSC. The applicant has not put forth a compelling reason why the Board should rule on this issue without first requiring him to seek relief from the Coast Guard's CRSC office. While it was necessary possibly for the applicant to file with the BCMR to have his record corrected to show that he had 20 years of active service to even be eligible for consideration for CRSC, the Board does not find that to be a compelling reason for it to usurp the authority of the Coast Guard to render initial determinations of eligibility for CRSC. It is the Board's understanding that the Coast Guard's CRSC office uses the guidance established by DoD to process and decide CRSC claims. That guidance requires that a retiree file a claim (DD Form 2860) with supporting documentation for CRSC with his or her respective service. The Board notes that since DoD guidance states that the BCMR is an appellate body for denials of CRSC claims, it is hesitant to make initial determinations of entitlement to CRSC. Moreover, the Board's rules require that the applicant exhaust his administrative remedies before applying to the BCMR. On this issue, the applicant has not done so. Therefore, the Board will direct that the applicant apply for CRSC by submitting an application to: Commander (adm-1-CRSC), United States Coast Guard Personnel Command, 4200 Wilson Boulevard, Arlington, VA 22203-1804. If his application for CRSC is denied, the Board recommends that the applicant appeal that decision to the BCMR.

12. Accordingly, the applicant is entitled to the limited relief discussed above and ordered below.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of [REDACTED], USCG (Ret.), for correction of his military record is granted in part as follows. His record shall be corrected to show that he was placed on the TDRL on March 5, 1973, and that on this date he had 20 years, 00 months, and 00 days of active duty.

The Coast Guard shall pay him any amount he may be due as a result of this correction.

