

Coast Guard May Sink Career of Crash Survivor

By Susan Crabtree

U.S. Coast Guard Lt. Lance Leone survived a helicopter crash that killed three others and beat back criminal charges of negligent homicide — but now he says he is in a final battle to avoid being sacrificed on the altar of bureaucratic accountability.

Though the Coast Guard dismissed all the charges in the criminal case stemming from the crash, he thinks the service's top leaders are determined to force him out of the Guard, even though he says the causes were beyond his control and the Coast Guard itself was negligent in marking the power lines that downed the helicopter.

But after five crashes in 2010 — the most costly series of accidents in the Coast Guard's recent history — top brass are under pressure to hold someone accountable, Lt. Leone says.

After the thousands of hours of attorneys and review boards have spent scrutinizing his conduct the day of the crash, Lt. Leone continues to follow his family and colleagues' advice to trust the system.

After all, the tight-knit Coast Guard community has been a way of life for many of his family members. His grandfather and grandmother, as well as his father-in-law, were all in the Guard, and his mother and father are in the Guard auxiliary.

Review board

But Lt. Leone said a special review board has been convened solely because of a derogatory report about his conduct that day. He fears that the board, which holds his career in the balance, therefore may be unfamiliar with mitigating details about the case, especially information about the history of the power lines that ensnared his Jayhawk helicopter.

"All I can hope for is, they didn't have all the information," Lt. Leone told The Washington Times. "I think I was singled out because I was the only survivor. The misplaced accountability only becomes apparent after you look at all the facts."

After several positive performance reviews, he was recommended to be promoted to lieutenant commander, the next-higher rank. But the commander of the Coast Guard's Personnel Service Center sent his case before a special board, which is deciding whether to deny the promotion — a move that would ensure an end to his Coast Guard career.

The special board has completed its evaluation and will soon send its recommendation to Homeland Security Secretary Janet A. Napolitano, whose department oversees the Guard and who will have final say.

Homeland Security didn't respond to multiple requests for comment, but Lt. Leone and his

attorneys say they fear Ms. Napolitano is likely to follow the recommendations of the Coast Guard leadership.

Not a vindication

A Coast Guard spokesman told The Times that convening this kind of special board to evaluate a promotion is allowed under Coast Guard policy, although he did not say how often it occurs.

“The board has met, and the recommendations are under consideration,” Coast Guard spokesman Carlos Diaz wrote in a lengthy response to questions from The Times.

The Coast Guard also points out that during Lt. Leone’s military hearing, the investigating officer recommended dismissing all of the charges except one — finding reasonable grounds that Lt. Leone committed the crime of negligent dereliction of duty. As the co-pilot, that officer found, Lt. Leone should have told the pilot that he was flying the helicopter too low “under the circumstances of the flight,” Mr. Diaz said.

As a result, the spokesman said, Lt. Leone cannot call the dismissal of criminal charges a full legal vindication even though the commanding officer decided not to pursue the lone charge and instead dismissed it.

“Rear Adm. [Thomas] Ostebo exercised his discretion as the convening authority and chose not to pursue criminal charges,” Mr. Diaz said.

Even though he did not pursue the charges, Adm. Ostebo wrote a derogatory report months later about Lt. Leone, which prompted the convening of the special board to reconsider his promotion.

“The Coast Guard has a responsibility to consider all information in a member’s record before assessing his ability to serve at the next rank,” Mr. Diaz said.

Lt. Leone and his attorneys have reached out to several senators on Capitol Hill to intervene on his behalf. Retiring Sen. Olympia J. Snowe sent a letter to Ms. Napolitano asking her to thoroughly review the matter, and the office of Sen. Marco Rubio, Florida Republican, said it is looking into the details of Lt. Leone’s case.

Coast Guard case

On July 7, 2010, Lt. Leone was the co-pilot of an MH-60 Jayhawk helicopter flying from Astoria, Ore., to the crew’s base in Sitka, Alaska, when it hit an unmarked span of low-hanging wires near LaPush, Wash., and crashed into the water, killing the pilot and two crew members.

The pilot, Sean Krueger, made an unannounced dive over the mouth of the Quillayute River to look at a Coast Guard vessel below. Seconds later, the Jayhawk hit the 1,900-foot span of wires that provide electricity for a warning beacon on nearby James Island.

Lt. Leone, a Coast Guard academy graduate, managed to break free of the helicopter and make it to the surface. He spent the next several months recovering from a broken collar bone and the mental anguish of the traumatic crash.

Alaska’s district commander at the time of the accident passed the investigation down to the air station commander, who ordered Lt. Leone to go before an aviation evaluation board and made a comment in his flight record that he needed to improve his flight-communication techniques. But the same commander went on to write a six-page memo arguing against any criminal action.

Nevertheless, 14 months after the crash, a new Alaska commander, Adm. Ostebo, charged Lt. Leone with negligent homicide, dereliction of duty and destruction of government property. Lt. Leone faced 24 years in prison if convicted.

After an extensive hearing, the Coast Guard eventually dismissed the charges against Lt. Leone.

During this process, Lt. Leone received a series of positive performance reviews, and two Coast Guard aviation evaluations found him “fit to fly,” contingent on passing a retraining course. Another board recommended him for promotion to lieutenant commander.

But in March, Adm. Ostebo issued a negative performance report that found Lt. Leone, as the co-pilot, failed to advise the pilot that he was flying too fast and too low. This failure directly contributed to the accident, the performance report said.

Just days earlier, Vice Adm. Sally Brice-O’Hara, who was the Coast Guard’s No. 2-ranking officer at the time, issued a final evaluation report on the accident faulting Lt. Leone for not adequately challenging the pilot’s decisions.

Power-line rules

However, the report also found that a lack of markings on the power-transmission lines — which were owned and maintained by the Coast Guard — might have contributed to the crash. The wires sloped from 190 feet high to about 36 feet. The orange marking balls were not along the span over the water at the time of the crash. Instead, faded markings were pooled near the low point over land.

Those same power lines were the site of two other accidents in the 1960s. In fact, in 1965, the Coast Guard was sued and a Washington state court found the Guard negligent for failing to install warning devices on the wires.

The Coast Guard argues that Federal Aviation Administration guidelines apply only to power lines at 200 feet and higher so they weren’t required to mark them. But an FAA official testified at Lt. Leone’s legal hearing that his agency requires extensive markings on wires below the 200-foot threshold in “extraordinary” circumstances — and two prior accidents and a lawsuit would meet that standard.

Since the accident, the Coast Guard has removed the lines and replaced them with a generator, and is conducting an audit of power lines on all of its properties. Blaming a co-pilot for a crash is rare but not unheard of, said Sterling DeRamus, a lawyer specializing in military matters at Tully Rinckey’s Washington office.

“The maritime services are very strict on accountability for pilots and aircraft and for managing ships,” he said. “The pilot bears the ultimate responsibility, but sometimes they will go after the only survivor — at least in administrative ways. But I’ve never heard of a co-pilot being prosecuted for negligent homicide.”

Other defenses

Lt. Leone’s civilian attorney, John Smith, argues that his client programmed the helicopter on a track that would have missed the wires, but the pilot deviated from it, dropping in altitude as he flew over a Coast Guard boat seconds before the crash.

Adm. Brice-O’Hara’s report includes a series of recommendations, including studying the feasibility of equipping Coast Guard helicopters with wire-strike-prevention systems — which easily could have cut through the string of power lines — as similar aircraft in other service

branches have had for roughly a decade.

Mr. Smith said many of the assertions in the two reports did not take into account testimony from the military hearing that knocked down the main points. Aircraft from the Alaska-based Coast Guard air station, for instance, regularly flew at low altitudes over its own vessels with no warnings or advisories from superiors not to do so.

Jeffrey Addicott, director of the Center for Terrorism Law at St. Mary's University School of Law and a former judge advocate general for the Army's Special Forces, was outraged when he heard about Lt. Leone's case and has tried to help him contact members of Congress to intervene on his behalf.

"It is difficult to imagine a more egregious case of unlawful command influence against a junior officer to cover what is clearly negligence by the Coast Guard in not equipping helicopters with life-saving technology and maintaining ground conditions regarding the negligently hung wires," said Mr. Addicott. "Step by step, the Coast Guard command has been intent on destroying the career and reputation of Lt. Leone."