

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2009-217

**XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX**

FINAL DECISION

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 case upon receipt of the applicant's completed application and military records on July 31, 2009, and subsequently prepared the final decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated March 26, 2010, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to correct his military record by including a copy of an Officer Evaluation Report (OER) for the period February 1, 1998, to July 8, 1998, which he submitted to the Board. The applicant stated that he just recently discovered that the OER was not in his military record. He stated that it was signed by his supervisor and reporting officer but was apparently lost between the unit and Personnel Service Center. He stated that rather than contacting him about the lack of an OER for the period in question, someone attempted to eliminate the OER gap in his record by making a pen and ink change to the beginning date of the immediate subsequent OER. The applicant also requested to have the beginning date on the immediate subsequent OER corrected.

The applicant submitted a copy of the OER that shows signatures by the supervisor and the reporting officer, but no reviewer signature. He also submitted a copy of his immediate subsequent OER showing a pen and ink change to the beginning date for that OER.

VIEWS OF THE COAST GUARD

On December 18, 2009, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant relief in accordance with the comments from Commander, Personnel Service Command (PSC). PSC offered the following conclusions:

1. There was a failure by certain rating chain members to carry out their responsibilities in submitting the applicant's OER in accordance with the Coast Guard Personnel Manual.

2. The OER for the period ending 08 July 1998 accurately documents the applicant's performance during the rating period . . .

* * *

4. The applicant has provided evidence that overcomes the presumption of regularity with respect to the construction or submission of the disputed OER, and there is [a] basis for including the OER in the applicant's record.

5. Discerning the reviewer for this period of report in question is not likely; an alternate reviewer should be considered.

PSC recommended that PSC serve as the reviewer for the OER and that the beginning date for the immediate subsequent OER be amended.

PSC obtained a statement from the reporting officer for the OER in question. The reporting officer stated that the copy of the OER provided to him matched his impression of the applicant's performance and he verified his signature as well as that of the supervisor. The reporting officer supported the applicant's request to have his copy of the OER included in the applicant's PDR.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 14, 2010, the Board received the applicant's response to the views of the Coast Guard and agreed with them.

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. The application was timely.

2. The JAG admitted, and the Board finds that the reporting officer, who was also the CO for the OER period under review, failed in his responsibility to ensure that the applicant receive a fair, accurate, objective, and timely OER. The Board also agrees with the JAG that the signatures on the copy of the OER for the period under review are probably genuine as verified by the reporting officer. Therefore, the applicant is entitled to the relief recommended by the Coast Guard, which is that a copy of the OER be included in his PDR, once it is signed by PSC as the reviewer. The applicant is also entitled to have the beginning date of his immediate subsequent OER (ending date January 31, 1999) corrected.

3. Accordingly, the applicant should be granted relief as recommended by the Coast Guard.

[ORDER AND SIGNATURES APPEAR ON FOLLOWING PAGE]

ORDER

The application of XXXXXXXXXXXXXXX, USCG, for correction of his military record is granted as follows:

The Coast Guard shall include a copy of the OER for the period February 1, 1998, to July 8, 1998, in his PDR once it is signed by PSC as the reviewer.

The Coast Guard shall correct the OER with an ending date of July 31, 1999, to show July 9, 1998, as the beginning date for that OER evaluation period.

No other relief is granted.

Jeff M. Neurauter

Lynda K. Pilgrim

Kenneth Walton