

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-103

FINAL DECISION

██████████ Chairman:

This is a proceeding under section 1552 of title 10, and section 425 of title 14, United States Code. It was commenced on April 28, 1999, when the Board received a request for relief from the applicant.

This final decision, dated March 9, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant, a ██████████ (pay grade E-5), asked the Board to direct the Coast Guard to correct the answer in block 9 on his form 3301B (Agreement to Extend Enlistment). Block 9 was termed "Reason for Extension of Enlistment." Block 9 of the uncorrected form was marked by checking the box marked "Request of Individual." The applicant said block 9 should be marked as "Obligated Service for Transfer" instead.

The applicant stated that he extended in order to obligate sufficient service to accept transfer orders from the ██████████ to the ██████████ "as per counsel of the unit yeoman." The transfer, according to unclassified Message Order No. 1,326, involved a "mutual exchange of station auth[orized]" between the applicant and another ██████████. The effective date of the order for that mutual exchange was June 24, 1998.

The order also directed the commanding officer of the unit from which the applicant would depart to ensure that he had a minimum of two years obligated service remaining upon reporting to his new unit.

The Agreement to Extend Enlistment was dated June 22, 1998, and the order for mutual exchange of station was dated June 24, 1998.

VIEWS OF THE COAST GUARD

On November 19, 1999, the Board received an advisory opinion from the Chief Counsel of the Coast Guard setting forth the views of the Coast Guard.

The Chief Counsel said that the Coast Guard committed an administrative error in this case: "The Applicant should not have been required to incur additional obligated service in June 1998 to accept his PCS orders to [REDACTED]"

According to PCS orders received by the applicant on June 24, 1998, the applicant was required to have "a minimum of two years" of obligated service remaining when he reported to his new unit. The Chief Counsel said that statement was incorrect as applied to a service member like the applicant who had already served over six years on active duty. The Chief Counsel stated that the applicant already had sufficient obligated service remaining (one year, pursuant to Art. 4.B.6.a.2. of the Personnel Manual) and need not have further obligated himself.

While admitting an error, the Chief Counsel did not recommend granting absolute relief. According to the advisory opinion, the relief should be conditional: "[I]f the Applicant submits substantial evidence to support his claim that he was executing an extension for the purpose of OBLISERV [obligated service for transfer], the Board could find that he has successfully rebutted the presumption that the extension contract was executed for the purpose indicated on its face and hold that he executed the extension for the purpose of OBLISERV."

APPLICANT'S RESPONSE TO COAST GUARD VIEWS

On November 22, 1999, the Board sent a copy of the views of the Coast Guard on this matter and notified the applicant that he could submit a response to those views within 15 days of the notification.

No response was received from the applicant.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10, United States Code. The application was timely.
2. The Coast Guard has admitted that it committed an administrative error in requiring the applicant to incur additional obligated service in June 1998 to accept a transfer to another ship, the [REDACTED]

3. The Coast Guard erred when it issued PCS orders to the applicant requiring him to incur additional obligated service to accept the transfer. He was only required to be obligated for one year. Personnel Manual, art. 4.B.6.a.2.


4. The fact that the applicant extended on June 22 (and that the PCS orders were issued on June 24) is understandable given the fact that this was a "mutual exchange." The two [REDACTED] were undoubtedly aware that they were going to exchange ships within a short period of time. It is understandable that the applicant executed his Agreement to Extend Enlistment two days before receiving the PCS Orders, because there were many sources of information, one of which was the unit yeoman who was responsible for the erroneous counsel on the need to incur obligated service.

5. The Board finds that the applicant has proved by a preponderance of the evidence that the extension was for the purpose of obligated service.

6. Based on the administrative error, the Board should grant relief by correcting the applicant's June 22, 1998 extension agreement to show that he extended for the purpose of obligated service.

[ORDER AND SIGNATURES ON FOLLOWING PAGES]

ORDER

The military record of  shall be corrected by correcting block 9 on the Agreement to Extend Enlistment signed by the applicant on June 22, 1998 to show that the reason for the extension was to provide "Obligated Service for Transfer" and not at the "Request of Individual."

