


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2006-097

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

FINAL DECISION

 This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed this case on April 21, 2006, upon receipt of the completed application.

This final decision, dated January 11, 2007, 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, who on September 22, 2005, enlisted in the Coast Guard as a seaman (SN; pay grade E-3) with prior active service in the U.S. Army, asked the Board to correct his record to show that he is a gunner's mate first class (GM1; pay grade E-6).

The applicant alleged that his recruiter never properly checked his record and so erroneously told him that he did not qualify to enlist in the GM rating. The applicant alleged that other soldiers from his unit with less training than he had, had transferred to the Coast Guard in the GM rating.

The applicant stated that during his more than 10 years in the Army, he attended training in leadership, armor school, airborne school, air assault, reconnaissance, anti-terrorism, and special forces. He qualified as an expert with numerous weapons, including the M4, M16 rifle, M60 machine gun, M240B machine gun, M240C coaxial machine gun, M249 machine gun, M203 grenade launcher, 9MM TOW missile, MK19 machine gun, 25MM ammunition can, and a 50 caliber (M2) machine gun, day and night fire. Prior to leaving the Army, he had earned advancement to E-7 but was discharged as an E-6 (staff sergeant) because he would not sign an indefinite reenlistment

contract when his Army enlistment ended. The applicant pointed out that the Coast Guard "has a better use for my leadership and experience than picking up trash on base" as an SN. He submitted many documents and certificates concerning his qualifications.

VIEWES OF THE COAST GUARD

On August 30, 2006, the Judge Advocate General of the Coast Guard recommended that the Board deny the applicant's request. He adopted the facts and analysis provided in a memorandum on the case prepared by the Coast Guard Recruiting Command (CGRC) and on a signed memorandum by the first class petty officer, [REDACTED] who served as the applicant's recruiter.

CGRC stated that during the applicant's enlistment processing, he "expressed a strong desire to enlist on active duty immediately, for further assignment to Puerto Rico." CGRC stated that the applicant's Army training was reviewed for a rate determination. CGRC further stated that

[b]ased on the recruiter's initial review and experience with rate determinations for all ratings, [the applicant] was advised that because none of his Army training aligned with any of the Coast Guard's ratings, including the Gunner's Mate (GM) rating, the likelihood of a favorable GM rate determination was remote, and that a substantial amount of time would be required to complete the rate determination. Additionally, the entire staff at [the recruiting office] advised [the applicant] of the available opportunities with Guaranteed "A" Schools as a prior service applicant, which would determine his enlistment date depending on class availability. However, [the applicant] decided to forego requesting both a rate determination and Guaranteed "A" School. Subsequently, [he] enlisted on active duty on 22 September 2006. He attended four weeks of prior service indoctrination training at Coast Guard Training Center Cape May, New Jersey, and was assigned to Coast Guard [REDACTED]

Because [the applicant's] prior service training did not align with any of the ratings in the Coast Guard enlisted workforce and his recruiter appropriately advised him of all available training opportunities to which he declined, I recommend that relief not be granted in this case.

The applicant's recruiter, [REDACTED], supported the claims in CGRC's memorandum. He stated that when the applicant contacted the recruiting office in August 2005, he expressed a strong desire to enlist immediately. After reviewing the applicant's Army experience, [REDACTED] advised him that there was no comparable rate in the Coast Guard for someone with his experience and discussed "A" School opportunities for him based on his ASVAB test. However, the applicant stated that "his preference was to be stationed in [REDACTED] and to get there as soon as possible." During [REDACTED]'s first call to the non-rate detailer, the latter stated that the closest opening he had was in [REDACTED]. After the applicant emphasized that he needed to be assigned to [REDACTED] so that he could see his children, who lived with his ex-wife, the non-rate detailer was

contacted again and stated that there was an opening in [REDACTED] beginning in November 2005. Further calls enabled the applicant to join the prior service indoctrination class that started in September 2005. AET1 C stated that when “striking”—on-the-job training to earn a petty officer rating—was explained to the applicant, he was interested because it would allow him to remain in [REDACTED].

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 1, 2006, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. No response was received.

APPLICABLE REGULATIONS

The Enlisted Performance Qualifications Manual (COMDTINST M1414.8C) indicates that apart from marksmanship, some of the basic qualifications for the GM rating include the safe handling, firing, and training others to use the Coast Guard’s small arms, machine guns, and weapon systems installed on cutters; maintaining and fixing the mechanical, electrical, electronic, and hydraulic parts of all such weapons; handling, inspecting, storing, activating, demonstrating the use of, and disposing of pyrotechnics and ammunition; inspecting, maintaining, and fixing magazines and magazine sprinkler systems; managing an ordnance hazardous material and disposal program; and maintaining inventories.

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 applicant has submitted insufficient evidence and information to prove by a preponderance of the evidence that the Coast Guard committed an error or injustice by enlisting him as an SN/E-3. While it is clear from the applicant’s submissions that he has significant leadership experience and expertise with various weapons, his submissions do not show how his Army experience and expertise match the skill set required of a GM1, GM2, or GM3 in the Coast Guard.
3. The applicant alleged that some Army colleagues with similar or less experience have transferred to the Coast Guard in the GM rating. He provided no proof that he had the same skill sets as these colleagues or that they were recruited at

the same time that he was. The Coast Guard is certainly entitled to alter its recruiting requirements over time.

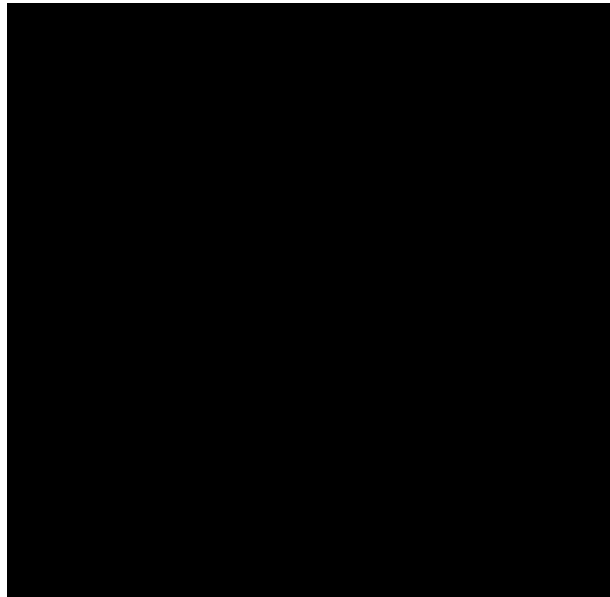
4. The applicant's recruiter indicated that the applicant expressed a strong desire to be stationed near his children's home. Even if the applicant's experience and expertise did match the skill set for the GM rating, the Coast Guard was not required to create an open GM billet in the desired location to suit the applicant's needs.

5. While the applicant has made a significant financial and professional sacrifice to return to active duty based near his children's home, he has not proved that his voluntary enlistment as an E-3 was erroneous or unjust.¹

6. Accordingly, the applicant's request should be denied.

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is denied.



¹ For purposes of the BCMRs under 10 U.S.C. § 1552, "injustice" is "treatment by military authorities that shocks the sense of justice." *Sawyer v. United States*, 18 Cl. Ct. 860, 868 (1989), *rev'd on other grounds*, 930 F.2d 1577 (citing *Reale v. United States*, 208 Ct. Cl. 1010, 1011 (1976)).

