

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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 46-96

FINAL DECISION

████████ Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on December 20, 1995, upon the Board's receipt of the applicant's request for correction of his military record.

This final decision, dated August 29, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Application for Relief

The applicant alleged that he enlisted in the Coast Guard in 1974. He agreed "to report to such station or vessel as I may be ordered to join" and to serve six years from November 26, 1974. According to the enlistment contract, he took the enlistment oath on November 26, 1974.

The applicant said that his DD Form 214 indicated that he entered active duty on July 14, 1975, rather than November 26, 1974. He alleged that entering a date that was approximately eight months later than his date of enlistment was an error.

The applicant alleged that the error should be corrected to show that he entered active duty on the date set forth in the enlistment contract.

Views of the Coast Guard

On March 19, 1997, the Commander of the Coast Guard Personnel Command [CGPC] recommended that the requested relief not be granted.

The Commander said that the applicant enlisted in the Coast Guard Reserve on November 26, 1974 and was on inactive duty until July 14, 1975. On July 14, 1975, he enlisted in the regular Coast Guard and was transferred to the Training Center for basic

training.

The Commander said that the enlistment contract that was signed on November 26, 1974 only served to mark the date on which he signed his reserve enlistment contract indicating delayed enlistment.

The Chief Counsel of the Coast Guard, on June 11, 1997, designated the CGPC opinion as the Coast Guard's advisory opinion and added to it the allegation that the application was untimely and not in the interests of justice.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction to determine the issues in this proceeding under section 1552(b) of title of title 10, United States Code.

2. The application was not submitted to the Board within three years after the discovery of an alleged error or injustice, as required by law, but it is the interest of justice that the issues in the application be resolved on the merits, as authorized by law, because the Coast Guard has not said they have been prejudiced by the delay and the applicant made no effort to be timely.

3. On November 26, 1974, the applicant signed an enlistment contract under which he agreed to enter the Coast Guard and to report to such station or vessel as he may be ordered to join. The applicant obliged himself to serve six years from that date in the Coast Guard.

4. On July 14, 1975, a "record of transfer" was entered, with respect to the applicant, by the officer in charge at the Coast Guard Recruiting Office, El Paso, Texas. The record directed the applicant to be "immediately transferred" to the training center at Alameda, California for recruit training.

5. On July 14, 1975, the applicant signed a four-year enlistment contract to serve four years in the Coast Guard. According to that agreement, his "military obligation [was] incurred" on November 26, 1974. This enlistment, according to an December 1977 agreement to extend enlistment, would be completed on July 13, 1979.

6. The applicant did not establish that the Coast Guard committed an error or injustice. Accordingly, the application should be denied.

ORDER

The application to correct the military record of
USCG, is denied.

