

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2016-142

[REDACTED]
[REDACTED]
[REDACTED]

FINAL DECISION

This is a proceeding under 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 on June 3, 2016, and assigned it to staff attorney [REDACTED] to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated March 23, 2017, is approved and 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, an active duty member, asked the Board to correct his last name in his personal data record (PDR) from the one shown first in the caption above to the one shown second. All of his military records, including his enlistment documents, show that his last name is the first listed above, but the applicant submitted photocopies of his birth certificate and United States Passport. The date of birth and mothers' name on the birth certificate are the same as those on his enlistment documents. The applicant also submitted a copy of his Social Security card showing that his Social Security Number is the same as that in his military records.

The applicant stated that a clerical error was made on his enlistment contract even though he signed his enlistment contract and other documents with the second name listed above.

VIEWS OF THE COAST GUARD

On November 17, 2016, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant the applicant's request and adopted the findings and analysis in a memorandum prepared by the Personnel Service Center (PSC).

PSC recommended that the Board grant relief by correcting the applicant's name to the second name listed in the caption based on the applicant's birth certificate, passport, and Social

Security card. According to COMDINST M1100.2E, Article 2.A.1.b.(2), recruiters are responsible for verifying each applicant's identity. Furthermore, the term "legal name" is defined as the name a person has for official purposes, usually consisting of a person's name given to them at birth. A birth certificate and passport are documents that are acceptable for verification of a person's name upon enlistment. PSC therefore recommended that the applicant's EI-PDR be updated to reflect the applicant's proper name. It was further recommended that the applicant directly pursue updating his name directly in Direct Access and the Defense Enrollment Eligibility Reporting System (DEERS).

In addition, PSC discovered that the applicant's contract states that he joined the Coast Guard Reserve on November 21, 2005. However, the applicant's active duty base date in his electronic records is also November 21, 2005. The applicant is currently on active duty, and has been since he joined on November 21, 2005. PSC therefore recommended that pen and ink changes be made to the applicant's initial enlistment contract to show that he enlisted in the Coast Guard and not the Coast Guard Reserve and that the information regarding the Delayed Entry Program, found in block B.8.a. of the contract, be redacted as it was not applicable to the applicant.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 22, 2016, the Chair sent the applicant a copy of the Coast Guard's advisory opinion and invited him to submit a response within thirty days. No response was received.

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 submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.¹

2. Although the name in the applicant's military records is presumptively correct,² the birth certificate that he submitted bears the same mother's name and date of birth as those shown in his military record but a slightly different last name than that shown in the applicant's military records. Therefore, and in light of his Social Security Number and the Coast Guard's response, the Board is persuaded that the applicant is the member he says he is. The Board also finds that the applicant has proven by a preponderance of the evidence that the name in his military records is erroneous and should be corrected to the second name shown in the caption above.

3. The Board is also convinced that the applicant's initial contract contained an error regarding his enlistment. The applicant's enlistment contract states that he entered the Coast

¹ *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994) (holding that, under § 205 of the Soldiers' and Sailors' Civil Relief Act of 1940, the BCMR's three-year limitations period under 10 U.S.C. § 1552(b) is tolled during a member's active duty service).

² 33 U.S.C. § 52.24(b).

Guard Reserve under a Delayed Entry Program. The applicant's military record indicates that he has been an active duty member of the Coast Guard since his enlistment. Therefore, the Board finds that the applicant's original enlistment contract should be changed to show that he enlisted in the Coast Guard and not the Coast Guard Reserve, and that the information regarding the Delayed Entry Program, found in block B.8.a. of the contract, should be redacted.

4. Accordingly, relief should be granted by directing the Coast Guard to correct the applicant's name in his EI-PDR, electronic databases such as Direct Access, and DEERS, and by changing his enlistment contract to show that he enlisted in the Coast Guard, and not the Coast Guard Reserves.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of [REDACTED], USCG, for correction of his military record is granted. The Coast Guard shall correct his name in his EI-PDR, Direct Access, and any other electronic database it uses, including DEERS, to show that his last name is "[REDACTED]." The Coast Guard shall also make pen and ink corrections to his original enlistment contract to show that he enlisted in the regular Coast Guard, rather than the Reserve, and redact the information regarding the Delayed Entry Program found in block B.8.a. of the contract.

March 23, 2017

