


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-041

 LTJG/O-2E

FINAL DECISION

This is a proceeding under the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2707. The Chair docketed the case after receiving the completed application on December 5, 2018, and prepared the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated March 20, 2020, 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, a lieutenant junior grade (LTJG) in the Coast Guard, asked the Board to correct the DD 214 documenting his former active enlisted service from June 23, 2009, to July 22, 2015, to show that instead of being “discharged” from active duty, he was “released” from active duty into the Reserve. He also asked the Board to correct the Reserve Obligation Termination Date on his DD 214 from July 21, 2015, to May 18, 2017. He alleged that these corrections would change his Pay Entry Base Date (PEBD) in the Coast Guard’s database from May 27, 2010, to June 23, 2009.

The applicant explained that he initially enlisted in the Reserve under the Delayed Entry Program (DEP) on May 19, 2009. On the enlistment contract, he agreed to serve at least 4 years on active duty in the regular Coast Guard with an 8-year total military service obligation—through May 18, 2017. He alleged that while in the DEP, he was assigned to a Reserve unit for about five weeks from May 19, 2009, until he enlisted in the regular Coast Guard on June 23, 2009, when he reported for bootcamp. He extended his active duty enlistment for 2 years and 1 month and was separated from active duty when his enlistment ended on July 22, 2015. He stated that because his initial 8-year military service obligation did not end until May 18, 2017, his DD 214 dated July 22, 2015, should show that he was “released” from active duty into the Reserve instead of being “discharged.”

The applicant submitted copies of his military records to support his claims. His enlistment contracts and DD 214 support his claims and confirm the alleged dates.

VIEWS OF THE COAST GUARD

On May 20, 2019, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board grant relief in this case and adopted the findings, analysis, and recommendation provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC confirmed the dates provided by the applicant and stated that because the applicant had a remaining military service obligation when he left active duty on July 22, 2015, his DD 214 should state that he was released from active duty, rather than discharged. In addition, because he incurred an 8-year military service obligation when he enlisted in the Reserve May 19, 2009, the Reserve Obligation Termination Date on his DD 214 should be May 18, 2017.

PSC stated that the applicant returned to active duty on June 27, 2016, and so his record should show no break in military service since his original 8-year military service obligation ended thereafter on May 18, 2017. But because the Reserve Obligation Termination Date on his DD 214 is currently July 21, 2015, his record erroneously reflects a break in service from July 22, 2015, to June 26, 2016, which has adversely adjusted his PEBD. Therefore, PSC recommended that the Board direct the following corrections to the applicant's record:

- Correct the Direct Access database from to show that his type of separation was RELAD (released from active duty) instead of DISCHARGE; that he was transferred to the IRR (Individual Ready Reserve) upon RELAD; and that he incurred no break in service;
- Issue a new Statement of Creditable Service for him showing June 23, 2009, as his PEBD;
- Award the applicant the back pay and allowances he will be due as a result of the correction of his PEBD; and
- Reissue his DD 214 with the following corrected entries:
 - His Reserve Obligation Termination Date in block 6 should be May 18, 2017;
 - The Command to Which Transferred in block 9 should be the USCG Personnel Service Center (RPM-3), Washington, DC;
 - The Type of Separation in block 23 should be Released from Active Duty; and
 - The Separation Authority in block 25 should be Article 1.B.11. of the Military Separations Manual, COMDTINST M1000.4.¹

¹ Currently, block 25 of the applicant's DD 214 says "PSC-EPM," which is an office at Coast Guard Headquarters, not a citation to a separation authority. Article 1.B.11. of COMDTINST M1000.4 states, "Unless a member voluntarily or involuntarily remains beyond the normal enlistment expiration date as provided in this Article or by other instructions the Commandant issues, a member shall be discharged or released from active duty and transferred to the Reserve to fulfill any remaining service obligation."

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 22, 2019, 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.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on 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 10 U.S.C. § 1552. Although the applicant was not filed with three years of the applicant's receipt of his DD 214, it is considered timely because his active duty has tolled the statute of limitations.²

2. The applicant alleged that errors on his DD 214 are adversely affecting his PEBD. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in the military record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.³ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."⁴

3. The applicant has proven by a preponderance of the evidence that his DD 214 shows an incorrect Reserve Obligation Termination Date, because he enlisted in the Reserve for 8 years on May 19, 2009, and an incorrect type of separation because when he left active duty on July 22, 2015, he should have been RELAD, instead of discharged, since he had not yet completed his military service obligation. The Coast Guard noted other discrepancies that require correction and agreed with the applicant that the corrections would remove the erroneous break in service from his record, return his PEBD to what it should have been, and result in the applicant being owed back pay and allowances.

4. Accordingly, the relief recommended by the Coast Guard should be granted. The Coast Guard should

- correct the Direct Access database to show that his type of separation was RELAD (released from active duty) instead of DISCHARGE, that he was transferred to the IRR (Individual Ready Reserve) upon RELAD, and that he incurred no break in service;
- issue a new Statement of Creditable Service for him showing June 23, 2009, as his PEBD;

² *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).

³ 33 C.F.R. § 52.24(b).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

- award the applicant the back pay and allowances he will be due as a result of the correction of his PEBD; and
- reissue his DD 214 with the following corrected entries:
 - His Reserve Obligation Termination Date in block 6 should be May 18, 2017;
 - the Command to Which Transferred in block 9 should be the USCG Personnel Service Center (RPM-3), Washington, DC;
 - the Type of Separation in block 23 should be Released from Active Duty; and
 - the Separation Authority in block 25 should be Article 1.B.11. of the Military Separations Manual, COMDTINST M1000.4.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of LTJG [REDACTED], USCG, for correction of his military record is granted. The Coast Guard shall

1. correct the Direct Access database to show that his type of separation on July 22, 2015, was RELAD (released from active duty), that he was transferred to the IRR (Individual Ready Reserve) upon RELAD, and that he incurred no break in service;
2. issue a new Statement of Creditable Service for him showing June 23, 2009, as his PEBD;
3. pay him any back pay and allowances he is owed as a result of the correction of his PEBD; and
4. reissue his DD 214 with the following corrected entries:
 - a. His Reserve Obligation Termination Date in block 6 shall be May 18, 2017;
 - b. the Command to Which Transferred in block 9 shall be the USCG Personnel Service Center (RPM-3), Washington, DC;
 - c. the Type of Separation in block 23 shall be Released from Active Duty; and
 - d. the Separation Authority in block 25 shall be Article 1.B.11. of the Military Separations Manual, COMDTINST M1000.4.

March 20, 2020

