

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2007-069

**XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX**

FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case on January 19, 2007, upon receipt of the completed application, and subsequently prepared the final decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated October 4, 2007, 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 asked the Board to correct her military record to show that she enrolled in the Montgomery GI Bill (MGIB) while in the Coast Guard. She enlisted in the Coast Guard on November 19, 2002 and was discharged on January 12, 2007.

The applicant stated that she declined participation in the MGIB program while in the Coast Guard because she thought she was entitled to benefits based on her previous enrollment in the program during the eight months she was in the Navy. She stated that upon further investigation she found that she was not entitled to the MGIB benefits as a result of her participation in the program while in the Navy because that enlistment ended due to an erroneous enlistment, even though she had paid into the program. She stated that if she had known that she was not entitled to MGIB benefits as a result of her Navy enlistment she would not have declined enrollment when it was offered to her while in the Coast Guard.

The applicant submitted DD form 2366 (MGIB Basic Enrollment Form) from the Navy dated September 6, 2001, which shows that she enrolled in the MGIB program at that time. She also submitted DD Form 2366 from the Coast Guard dated December 3, 2002, which shows that she did not enroll in the program while in the Coast Guard. She acknowledged the following statement with her signature on the Coast Guard MGIB enrollment form: "I do not desire to participate in MGIB. I understand the benefits of the MGIB program and that I will not be able to enroll at a later date.'

VIEWS OF THE COAST GUARD

On March 1, 2007, the JAG submitted an advisory opinion recommending that the Board deny relief. He agreed with the comments provided by the Commander, Coast Guard Personnel Command (CGPC) and asked the Board to accept them as a part of the advisory opinion.

CGPC stated that the applicant's record indicates that the Coast Guard counseled the applicant about the MGIB entitlement, and that she declined to participate in the program shortly after entering the Coast Guard. CGPC stated that pursuant title 38 § 3011C.1. of the United States Code members can not retract their election not to participate in the program. He argued that the applicant has not demonstrated that the Coast Guard committed any counseling error or injustice with regard to the MGIB program or in processing her election not to participate in the program. He noted that the applicant might have redress through the Department of Veterans Affairs or possibly obtain a refund of premiums through the United States Navy. Accordingly, CGPC recommended that no relief be granted to the applicant.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 4, 2007, a copy of the Coast Guard views was mailed to the applicant with 30 days allotted for him to respond. The BCMR did not receive a response from the applicant.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10 of the United States Code, and the application was timely.
2. Prior to enlisting in the Coast Guard, the applicant served in the United States Navy where she enrolled in the MGIB program and apparently made some monthly monetary contributions until her discharge due to an erroneous enlistment after approximately 8 months in that Service.
3. Subsequently, the applicant enlisted in the Coast Guard and decided not to participate in the MGIB program as evidenced by her signature on the DD Form 2366 dated December 3, 2002.
4. The Board finds that the Coast Guard did not commit any error or injustice in this case. The Coast Guard provided DD Form 2366 to the applicant which explained the rules of the MGIB program. The applicant acknowledged that she did not enroll in the program when the Coast Guard offered it to her, but claimed that she would have enrolled had she known at that time that she would not receive benefits from her participation while in the Navy. The DD Form 2366 provided to the applicant by the Coast Guard advised her that an election not to participate

was final and could not be changed. In addition, the enrollment form advised the applicant that to be eligible for benefits, she must, among other requirements, contribute \$100 per month for 12 months. The applicant knew or should have known that she was in the Navy for only 8 months and therefore did not meet this requirement. The applicant may have operated under a mistaken belief, but that does not establish error by the Coast Guard.

5. Accordingly, the Board finds that the applicant has not demonstrated an error or injustice in this case and it should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of former XXXXXXXXXXXX, USCG, for correction of her military record is denied.

