

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2012-089

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 the case upon receiving the completed application on March 7, 2012, and assigned it to staff member J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated October 25, 2012, 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 his record to ensure that he receives his educational benefits under the Montgomery G.I. Bill (MGIB). He stated that he fully paid for the benefits. However, he did not explain or submit anything to show why he believes he cannot receive the benefits, which are administered by the Department of Veterans' Affairs (DVA). The applicant stated that he discovered the alleged error in his record on February 8, 2012.

In support of his allegations, the applicant submitted a copy of his DD 214, which shows that he enlisted on September 9, 2002, and was honorably discharged on September 7, 2006, for "completion of required active service." The "remarks" in block 18 include the notation: "MGIB info: Mbrs initial service contract was for 4 years." The applicant also submitted the notes from his Leave and Earnings Statement, showing that he had "contributed a total of \$1,200.00 to MGIB." In addition to the evidence he submitted, the applicant's record contains an MGIB enrollment form showing that he did not disenroll from MGIB when he enlisted in 2002 and so was automatically enrolled in the program.

VIEWS OF THE COAST GUARD

On July 15, 2012, the Judge Advocate General (JAG) submitted an advisory opinion in which he recommended that the Board deny relief in this case. In so doing, the JAG adopted the findings and analysis provided in a memorandum on the case prepared by the Personnel Service

Center (PSC), which stated that the application should be considered timely but should be denied because the applicant's record shows that he participated in MGIB and does not contain any administrative irregularities. PSC noted that the applicant seems to be asking the Board for his MGIB benefits and should be told to address his request to the DVA instead, which administers MGIB benefits. PSC stated that relief should be denied because the applicant has failed to substantiate an error or injustice in his military record.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 10, 2012, the Board sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. No response was received. However, in a telephone call on September 21, 2012, the applicant advised the Deputy Chair that he had contacted the DVA and was already receiving his MGIB benefits.

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 10 U.S.C. § 1552. The applicant alleged that he discovered the alleged error in his record on February 8, 2012. Although the applicant submitted no evidence of error or injustice, assuming *arguendo* that he had discovered that he would not receive MGIB benefits in February 2012, then his application would be timely because it was filed within three years of his discovery of the alleged error. 10 U.S.C. § 1552(b).

2. The Coast Guard has stated that the applicant's record is not erroneous and clearly shows that he is entitled to MGIB benefits. The Board's own review of his record confirms this fact. In a telephone call on September 21, 2012, the applicant advised a BCMR staff member that he had contacted the DVA and was already receiving MGIB benefits. Therefore, the preponderance of the evidence shows no error or injustice in the applicant's military record with respect to his entitlement to MGIB benefits.

3. Accordingly, the application should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

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

