

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 48-97

FINAL DECISION

████████ Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on January 14, 1997, upon the receipt by the BCMR of the applicant's request for correction of his military record.¹

This final decision, dated January 30, 1998, was signed by three duly appointed members who were designated to serve as the Board in this case.

Application for Relief

The applicant is a seaman apprentice (SA; pay grade E-2) on active duty.

On January 23, 1996, he enlisted in the Coast in a delayed entry enlisted program for not less than four years. On January 23, 1996, he signed Form CG-3301I, which was entitled "Statement of Understanding, 4- Year Active Service Obligation, Montgomery G.I. Bill" (MGIB). The Form provided that he was "automatically enrolled" in the MGIB, that he will be eligible for educational benefits at colleges, approved on-the-job training programs, and other educational benefits. The document provides that if he wishes to "disenroll" it must be done within the first two weeks of active duty.

On July 9, 1996, the applicant entered on active duty. He signed his name to DD Form 2366, the MGIB election form. He signed on block 3.a. of this form, which is entitled Statement of Disenrollment, but he did not sign block 2.b. of that form, which is entitled Statement of Understanding.

¹ The application was complete on July 5, 1996, with the BCMR's receipt of the applicant's military record.

His application for correction was endorsed by the commanding officer (CO) of the ship to which the applicant was assigned. The CO wrote that he "genuinely believe[s] that [the applicant] mistakenly signed the Statement of Disenrollment block (3a) instead of the Statement of Undertanding block (2a)." The CO said that the applicant had a meeting with him when he came aboard; at the time the CO said that the applicant "explained that he had enlisted for four years, intending to obtain some technical training and then pursue a degree using the Montgomery GI Bill.

The applicant notified the executive petty officer that there was no deduction for the GI Bill on his pay statement. After investigation, the CO and Petty Officer "found that [the applicant] had signed the wrong block on his Montgomery GI Bill." The CO said the mistake was understandable because the two signature blocks were located close to each other, the elections were made during a stressful time for recruits, and there was no easy-to-use check box (elect or disenroll).

Views of the Coast Guard

On December 17, 1997, the Chief Counsel of the Coast Guard recommended to the BCMR that it grant the requested relief "to conform the record to his actual intent." The Chief Counsel said that the applicant "does present prima facie evidence that he intended to participate in the Montgomery GI Bill program at the time that he signed the form, but that he erred by signing the wrong block."

The Chief Counsel said that the "Coast Guard does not object" to granting the requested relief based on "circumstances of this application."

Response of the Applicant to the Views of the Coast Guard

A copy of the advisory opinion of the Coast Guard was sent to the applicant on December 19, 1997, with an invitation to the applicant to respond to the views of the Service. The BCMR said that "[i]f you have no objection to the Coast Guard's views, please notify the Board in writing that your case is ready for decision."

No response was received from the applicant.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and 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 of title 10, United States Code. The application is timely.

2. The applicant enlisted in the Coast Guard for four years on January 23, 1996. He enlisted in a delayed entry/enlistment program that required him to report July 9, 1996.

3. On January 23, 1996, he signed a form indicating his intent to enter the Montgomery GI Bill. The form provided he could disenroll by July 23, 1993, within two weeks after he entered active duty.

4. On July 23, 1996, the applicant signed a Statement of Disenrollment in the MGIB. He signed DD Form 2366 below the following text: "I do not desire to participate in the MGIB. I understand that I WILL NOT be able to enroll at a later date."

5. The applicant asserted that "[i]n the excitement and rush to complete the form, I signed the wrong block." He alleged that "[t]he election block (2a) and disenrollment block (3a) are very close on the form and are identical in format."

6. The applicant's commanding officer found that "the election and disenrollment blocks are formatted similarly and [are] located very close to one another on the form." The CO said that if the form had been designed differently (check box form) "this mistake may not have occurred," The CO also said that the witnessing official (a seaman) "may not have verified [the applicant's] intentions."

7. The applicant and his CO established that the Coast Guard committed error or injustice in failing to design a user-friendly choice form and in failing to appoint an experienced witnessing officials to verify the applicants intentions.

8. The applicant intended to elect the Montgomery GI Bill, and he intended that his basic pay shall be reduced \$100 per month for each of the first 12 months of active duty. following that date

9. The Chief Counsel of the Coast Guard said that the Coast Guard "[did] not object to the relief requested" in the application.

10. Accordingly, the applicant's application should be enrolled in the Montgomery GI Bill program, as of July 23, 1996. His erroneous disenrollment election took place on July 23, 1996, 15 days after he entered active duty. Disenrollment decisions were required to be made within two weeks of active duty.

ORDER

The application to correct the military record of [REDACTED], USCG is granted. The applicant shall be deemed to have signed the statement of understanding in block 2a, on "96 07 23." His signature, rank, and date signed, in block 3a, shall be deleted, so that the statement of disenrollment shall be deemed never to have been signed by the applicant. The applicant's basic pay shall be reduced \$100 a month for 12 months for MGIB following the date of this Final Decision.

