

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-207

██████████
████████████████████

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. After receiving the applicant's completed application on September 25, 2014, the Chair docketed the application and assigned it to ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated June 5, 2015, 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 E-4/MK3 reservist, asked the Board to correct his record by having his date of rank changed due to an alleged oversight by the Coast Guard that occurred during the advancement process. The applicant claimed that this oversight resulted in the delay of his advancement. The applicant alleged that the error occurred on November 15, 2012, but that he did not discover the error until December 15, 2012. In support of this request, the applicant submitted copies of his records, which are included in the summary below.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard Reserve and began recruit training as a fireman (FN/E-3) on May 15, 2012. Following recruit training, he attended Machinery Technician Class "A" School to earn the MK rating and graduated on October 5, 2012, less than five months after enlisting.

On September 11, 2012, while attending "A" School the applicant signed a CG-2030, Career Development Worksheet, which is erroneously completed to request advancement from FA/E-2 to FN/E-3, instead of from FN/E-3 to FN/E-4. His instructor signed this form on September 17, 2012, but the copy in the record is not signed by the commanding officer (CO).

In a memorandum to the applicant dated September 28, 2012, the school administrative officer addressed him as an FNMK (E-3 with rating) and stated that he had successfully com-

pleted the course and “all E-4 Machinery Technician rate-related enlisted performance qualifications ... the Enlisted Professional Military Education (EPME) and the Advancement Qualification Exam (AQE) requirements for advancement.”

Upon completion of “A” School, the applicant was released from active duty into the Selected Reserve and began drilling regularly. However, his rank remained FNMK/E-3 until June 16, 2014. The record contains a second Career Development Worksheet, requesting advancement to MK3/E-4, signed by the applicant and his supervisor signed on June 2, 2014, and by his CO on June 16, 2014.

VIEWS OF THE COAST GUARD

On March 18, 2015, the Judge Advocate General (JAG) submitted an advisory opinion recommending that the Board grant relief in this case in accordance with the findings and analysis provided in a memorandum submitted by the Commanding Officer, Coast Guard Personnel Service Center (PSC).

PSC contended that it was the applicant’s responsibility, upon meeting all the time and qualification requirements, to initiate the advancement process by completing a Career Intentions Worksheet, which the applicant completed on September 11, 2012. PSC also noted that although the applicant was not eligible for advancement until November 15, 2012, the applicant’s command failed to process and complete the Career Intentions Worksheet and provide an appropriate recommendation for advancement at the time the applicant became eligible. PSC acknowledged, and the JAG affirmed, that the delay in processing the applicant’s paperwork postponed the applicant’s advancement and therefore constitutes an administrative error on the Coast Guard’s part which therefore warrants correction. For that reason, PSC and the JAG recommend that the applicant’s date of rank be changed to November 15, 2012, six months after he enlisted on May 15, 2012, and that he receive back pay and allowances as an E-4.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 18, 2015, the Chair of the BCMR sent the applicant a copy of the Coast Guard’s views and invited him to respond within 30 days. The applicant replied on March 30, 2015, agreeing with the Coast Guard’s recommendation.

APPLICABLE LAW AND POLICY

Chapter 3.A.14.a. of COMDTINST M1000.2, Enlisted Accessions, Evaluations, and Advancements, states that in order to advance from E-3 to E-4, the member must have spent at least six months in the E-3 pay grade.

Advancement to:	Minimum Active Service Requirements
E-3 to E-4	Six months in pay grade E-3

Chapter 4.A.2.3. of PPCINST M1000.2B, Personnel Pay and Procedures Manual provides a table which identifies the process for advancement to E-3 and a designated Class "A" school graduate's advancement to E-4.

Stage	Who does it	What Happens
1	Member	Completes EOCT and Performance Qualifications. Submits Career Development Worksheet (CG-2030).
2	CO of Unit	Ensures member is eligible in accordance with reference (a), approves request and forwards Career Development Worksheet to the SPO.
3	SPO	Completes advancement transaction in Direct Access per reference (d)

The Personnel Pay and Procedures Manual, PPCINST M1000.2B, also states in Chapter 3.A.23.b.(1)(a)., with regard to the assignment of designators for E-2 and E-3 members upon completion of Class "A" school, that personnel serving in pay grades E-2 and E-3 who successfully complete Class "A" courses shall be assigned a designator per the following:

- (a) Graduates of Training Centers. Commanding officers of training centers conducting basic petty officer training shall assign designators to personnel serving in pay grades E-2 and E-3 who satisfactorily complete the prescribed course of instruction.

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.
2. Under 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22, an application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. The applicant stated that the alleged error occurred on November 15, 2012, and that he discovered the error on December 15, 2012. The applicant filed his application to the Board on September 25, 2014. Therefore, his application is timely.
3. The applicant requested that the Board correct his record to show his date of rank as November 15, 2012. The applicant alleged that his advancement was delayed due to an oversight by the Coast Guard during the advancement process. When considering allegations of error and injustice, the Board begins its analysis in every case by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.¹ Absent evidence to the contrary, the Board presumes that Coast Guard

¹ 33 C.F.R. § 52.24(b).

officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.”²

4. Under Chapter 3.A.14.a. of COMDTINST M1000.2, a member is required to serve six months as an E-3 before becoming eligible to advance to E-4. Because the applicant entered active duty in the Coast Guard Reserve as an FN/E-3 on May 15, 2012, the earliest he could have advanced to E-4 was November 15, 2012, if he completed all the qualifications and Professional Military Education requirements. On September 11, 2012, the applicant initiated a CG-2030, Career Development Worksheet, in which he requested advancement, and it was endorsed by his trainer. However, either he or someone else erroneously completed the form to request advancement to E-3, instead of E-4. This error presumably prevented the form from being processed, and so the applicant was not advanced when he became eligible on November 15, 2012. The memorandum of the school’s administrative officer dated September 28, 2012, shows that the applicant had completed all of the necessary qualifications and requirements for advancement to E-4 when he completed “A” School on October 5, 2012. PSC and the JAG have acknowledged that an administrative error was made that delayed the applicant’s advancement until the error was caught in June 2014.

5. The preponderance of the evidence before the Board shows that the applicant was eligible for advancement to E-4 on November 15, 2012, and that his advancement was delayed due to an administrative error. Therefore, the Board finds that the applicant’s request to have his date of rank backdated to November 15, 2012, should be granted, and he should receive the corresponding back pay and allowances owed to him as a result of this correction.

(ORDER AND SIGNATURES ON NEXT PAGE)

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

ORDER

The application of [REDACTED] USCG, for correction of his military record is granted. The Coast Guard shall correct his military record to show that he advanced to MK3/E-4 on November 15, 2012, and shall pay him any back pay and allowances due as a result of this correction.

June 5, 2015

