

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-009



FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the completed application on October 13, 2017, and assigned it to staff attorney [REDACTED] to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated July 20, 2018, 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 active duty [REDACTED], asked the Board to correct his record by changing the date of his advancement to E-4 from March 2, 2015, to December 12, 2014. The applicant explained that he submitted an application to this Board in October 2016 and requested that a negative Page 7¹ be removed from his record. His request was granted and the Page 7 was removed from his record in its entirety. The applicant was in "A" School at the time and he claimed that the negative Page 7 is the only reason he did not graduate on time. He stated that he would have advanced to an E-4 on December 12, 2014, with the rest of his classmates because he had met all of the graduation requirements if not for the Page 7. Instead he did not advance until March 2, 2015. Now that the Page 7 has been removed, he asked the Board to back date his advancement and award him all back pay and allowances.

In support of is application, the applicant provided proof that he had completed all of the "A" School graduation requirements on December 12, 2014. He also provided a copy of his previous BCMR decision.

¹ An Administrative Remarks record entry, form CG-3307, better known as a "Page 7," is used to document a member's notification of important information, achievements, or counseling about positive or negative aspects of a member's performance in the member's military record.

VIEWS OF THE COAST GUARD

On March 19, 2018, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion and recommended that the Board grant relief in this case. The JAG adopted the findings and analysis provided in a memorandum on the case prepared by the Personnel Service Center (PSC).

PSC recommended that the Board grant relief because the applicant has proven by a preponderance of the evidence that he would have advanced to an E-4 on December 12, 2014, if not for the negative Page 7. PSC stated that “it is in the interest of justice to retroactively advance the applicant to E-4 based on his graduation date” and therefore recommended granting relief.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 13, 2018, the Board sent a copy of the Coast Guard’s advisory opinion to the applicant and invited a response within thirty days. No response was received.

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 submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.

2. The applicant asked the Board to correct his record by changing his date of advancement to December 12, 2014. He claimed that the delay in his advancement until March 2, 2015, was erroneous. 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 his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.² 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.”³

3. The applicant provided evidence that he had completed the graduation requirements for “A” School on December 12, 2014. The rest of his class advanced to E-4 on that date. However, he was the only member of his class who did not advance until March 2, 2015. The Coast Guard has recommended that the Board grant relief because it agrees with the applicant that had the negative Page 7 not been in his military file, he would have advanced to E-4 on time with his classmates. The Board therefore finds that the applicant has met his burden and that his promotion should be back dated accordingly.

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

4. The Board finds that the applicant has proven by a preponderance of the evidence that he would have advanced to E-4 on December 12, 2014, instead of March 2, 2015, if not for the negative Page 7. Therefore, the Board finds that the Coast Guard should correct his record to show that he advanced to an E-4 on December 12, 2014, and should pay him any back pay and allowances he is owed as a result of this correction.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of [REDACTED], USCG, for correction of his military record is granted. The Coast Guard shall correct his E-4 advancement date to December 12, 2014, and pay him all back pay and allowances owed as a result of this correction.

July 20, 2018

