

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2017-231**

[REDACTED]

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**FINAL DECISION**

This is a proceeding under the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the application and the applicant's military records on August 11, 2017, and assigned the case to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated June 22, 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, a [REDACTED] E-5) on active duty, asked the Board to correct her record by amending a negative Administrative Remarks form (CG-3307 or "Page 7")<sup>1</sup> dated July 18, 2017. The Page 7 documents counseling for her role in playing an inappropriate practical joke on a chief petty officer, [REDACTED]. It also documents counseling for failing to obey the order of a senior chief petty officer, [REDACTED] not to contact or communicate with another E-5, [REDACTED] while [REDACTED] investigated the practical joke.

The applicant stated that the Page 7 should be amended because it states that she disobeyed a direct order not to have any contact or communication with [REDACTED]. She argued that she did not disobey any order because she was never told to completely avoid contact or communication with [REDACTED]. She stated that she was indeed told not to speak with [REDACTED] regarding the investigation but when she spoke to [REDACTED] she did not talk about the investigation.

In support of her application, the applicant submitted a signed letter from [REDACTED] who stated that she and the applicant had associated at a morale event after an advancement ceremony on June 1, 2017. She stated that only after the morale event where she had casually spoken to the

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<sup>1</sup> 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.

applicant, did the Senior Chief take her aside, tell her about the investigation, and tell her that she was not to speak to anyone about the investigation. She stated she was told only that she could not talk to others about the investigation and was not told that she had to completely avoid contact with anyone.

### **SUMMARY OF THE RECORD**

The applicant's record contains a negative Page 7 dated July 18, 2017, and signed by the Sector Commander, [REDACTED]. The Page 7 documents her role in an unwelcome and practical joke on [REDACTED] which resulted in "loss of productivity, left the Chief feeling disrespected, and demonstrated a concerning lack of professionalism" on her part. It also states that of greater concern was her failure to obey a May 31, 2017, order given by [REDACTED] not to contact or communicate with [REDACTED] in any way while the [REDACTED] conducted the investigation into the practical joke. The Page 7 states that [REDACTED] went to great lengths to "specify all the ways you might possibly communicate with a person. Despite this very explicit order, you were seen sitting at a table with [REDACTED] at a morale event the very next day on 1 Jun 2017, clearly having a conversation with [REDACTED] and even sharing with her something on your phone." The Page 7 instructs the applicant to apologize to both [REDACTED] and [REDACTED].

Because [REDACTED]'s order was verbal, the exact wording of his order to the applicant is not in the record.

### **VIEWS OF THE COAST GUARD**

On December 28, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief, in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC argued that relief should be denied because the Page 7 was issued based on an investigation into the applicant's role in a practical joke and her failure to obey the order given by [REDACTED] to avoid any contact with [REDACTED]. PSC noted that the [REDACTED] who gave the applicant the order not to speak to the [REDACTED] has since retired and cannot be reached for clarification, but argued that the applicant has not provided evidence to substantiate her claim that she was not told to avoid all contact with [REDACTED]. Finally, PSC argued that the Sector Commander acted within his authority to issue the Page 7 based on the facts surrounding the incident.

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On January 22, 2018, the Chair sent the applicant a copy of the views of the Coast Guard and invited her to respond 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 is timely.

2. The applicant alleged that a Page 7 documenting counseling on July 18, 2017, should be corrected because, contrary to what the Page 7 says, she was never told to avoid all contact with [REDACTED]. When considering allegations of error, the Board begins its analysis in every case by presuming that the disputed Page 7 is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that it is erroneous or unjust.<sup>2</sup> Absent evidence to the contrary, the Board presumes that a member's military records have been prepared "correctly, lawfully, and in good faith."<sup>3</sup>

3. The Board finds that the applicant has not submitted sufficient evidence to overcome the presumption of regularity accorded the Page 7. [REDACTED] submitted a statement for the applicant concerning what [REDACTED] told [REDACTED] after she spoke to the applicant at a morale event on June 1, 2017. [REDACTED]'s statement, however, does not prove that [REDACTED] had not told the applicant the day before not to contact or communicate with [REDACTED] at all, instead of limiting the prohibition to just contact or communications about the investigation. The Page 7 notes that in delivering this order, the senior chief specified at length all the ways that the applicant might contact or communicate with [REDACTED] and prohibited all such communications. The Page 7 is signed by the Sector Commander and is presumptively correct under 33 C.F.R. § 52.24(b).<sup>4</sup> [REDACTED]'s statement about what [REDACTED] told her after the morale event does not cast doubt on the accuracy of the Page 7.

4. The applicant has not proven by a preponderance of the evidence that the disputed Page 7 is inaccurate, erroneous, or unjust. Therefore, her request should be denied.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>2</sup> 33 C.F.R. § 52.24(b).

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

<sup>4</sup> See *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties "correctly, lawfully, and in good faith.").

**ORDER**

The application of [REDACTED], USCG, for correction of her military record is denied.

June 22, 2018

