

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

Application for the Correction of
the Coast Guard Record of:

**FINAL DECISION
BCMR Docket No. 2010-154**

**XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX**

SUMMARY OF THE RECORD

The applicant asked the Board to correct his record to show that he sold 60 days of leave when he signed an indefinite reenlistment contract on May 16, 2009. He alleged that he was counseled on an old Career Intentions Worksheet, which did not fully advise him about his opportunity to sell leave. He stated that when he signed the contract, he hoped to take leave pursuant to a transfer, and his Servicing Personnel Office advised him that if he could not take leave, he could sign a second indefinite reenlistment contract and sell the leave then. However, he later learned that he could not do so and, as a result of the bad advice, he lost 30.5 days of leave at the end of the fiscal year. In support of his allegations, the applicant submitted copies of the old and new Career Intentions Worksheets, which show that the form was amended in August 2009 to include the following advice: "If you are entering into an indefinite reenlistment, this will be the last opportunity to sell leave before you retire or are discharged."

The Judge Advocate General (JAG) recommended that the Board grant relief. The JAG stated that in light of ALCOAST 307/08, it is plausible that the applicant was mis counseled and that he should be given the benefit of the doubt. Paragraph 2 of the ALCOAST authorizes second indefinite reenlistments for members who had already entered them before September 1, 2008. Paragraph 6 states that after September 1, 2008, members could either reenlist for 3 to 6 years or sign an indefinite reenlistment, in which case they could not sign another contract.

Upon receiving a copy of the JAG's recommendation, the applicant responded that he agrees with it.

FINDINGS AND CONCLUSIONS

Under Chapter 7.A.20. of the Pay Manual, members may sell up to a career total of 60 days of leave upon being separated from the Coast Guard whether or not they reenlist. Under Section 5.D.2.1. of the Personnel and Pay Procedures Manual, members may not carry over more than 75 days of accrued, unused leave from one fiscal year to the next. Because paragraph 2 of ALCOAST 307/08 authorized a second indefinite reenlistment and the prohibition against second indefinite reenlistments for those reenlisting after September 1, 2008, did not appear until paragraph 6 of the ALCOAST, the Board finds it plausible that the applicant was incorrectly counseled that he would be able to sign a second indefinite reenlistment contract if he was unable to use his leave. The Board also notes that several prior applicants have made similar complaints

(*see, e.g.*, BCMR Docket Nos. 2010-015, 2008-074, and 2004-016) and that as a result of such problems, the Career Intentions Worksheet was revised three months after the applicant signed his contract to warn members who are reenlisting indefinitely that it will be their last opportunity to sell leave before their final separation. In light of these circumstances, the Board finds that it is in the interest of justice to grant relief. However, neither the applicant nor the Coast Guard submitted copies of the applicant's leave statements. Therefore, the Board does not know for certain (a) whether the applicant actually had 60 days of accrued, unused leave to sell on May 16, 2009; (b) whether he had ever sold leave before, in which case he could not have sold 60 days of leave in 2009 because that is the career-long maximum; or (c) whether correcting his record to show that he sold 60 days of leave in 2009 would, after his leave records are adjusted, leave him with a current negative leave balance. Therefore, relief should be granted provided that the applicant actually had accrued, unused leave to sell on May 16, 2009, that the sale of leave does not exceed the career-long limit of 60 days, and that the sale of leave does not leave him with a current negative leave balance.

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is granted as follows:

The Coast Guard shall correct his indefinite reenlistment contract dated May 16, 2009, to show that he sold his accrued, unused leave on that date, provided that the sale of leave shall not exceed the 60-day career maximum under the Pay Manual and shall not leave him with a current negative leave balance after his leave records are adjusted to reflect the sale. The Coast Guard shall pay him any amount due as a result of this correction.

February 4, 2011

Date

