

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2020-031**



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**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on November 19, 2019, and assigned the case to the Deputy Chair to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated August 6, 2021, 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 Boatswain's Mate 2<sup>nd</sup> class (BM2/E-5) on active duty, asked the Board to correct his reenlistment contract dated May 29, 2019, to allow him to carryover 26 days of leave.<sup>1</sup> He alleged that he intended to carryover 26 days of leave upon his discharge and reenlistment, but that the Coast Guard committed an error and instead paid him for 26 days of leave.

To support his allegation, the applicant submitted a copy of a Career Intentions Worksheet (CIW), which is a two-page form that a member completes before his enlistment ends to communicate his intentions to the Personnel Service Center. In Block 24 of the CIW, dated May 1, 2019, the applicant indicated that he intended to carryover 26 days of leave. The applicant also provided a copy of his reenlistment contract dated May 29, 2019. He argued that Block 8.b. of his reenlistment contract erroneously states that he was selling 26 days of leave. In accordance with his reenlistment contract, the applicant received a lumpsum payment of \$2,779.40 for the sale of his leave. He stated that if his request is granted, he would return the \$2,779.40 in exchange for 26 days of leave.

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<sup>1</sup> According to Chapter 6 of the Personnel and Pay Procedures Manual, PPCINST M1000.2b, the maximum leave balance carryover total for Fiscal Year 2019 was 60 days.

### SUMMARY OF THE RECORD

On May 17, 2011, the applicant enlisted in the Coast Guard for four years. He reenlisted on February 10, 2015, for another four years.

On May 1, 2019, in preparation for an additional four-year enlistment, the applicant completed a CIW. In Block 24 of the CIW, the applicant indicated that he intended to carryover 26 days of leave. He signed the form.

On May 15, 2019, an unidentified member of the Servicing Personnel Office emailed the yeoman, second class (YN2) who drafted the applicant's reenlistment contract and stated: "I'm a little confused, the CIW says the member would like to carryover 26 days, not sell. Can you ask the member to clarify his intentions?"

The next day, on May 16, 2019, the YN2 replied by stating: "I can't log into the tracker. The member wants to sell 26 days of leave."

On May 29, 2019, the applicant reenlisted for four years. One the first page of his reenlistment contract, the remarks in Section 8.b. include the following: "Member selling 26 days of leave." The applicant initialed the bottom of the page.

On June 14, 2019, an Executive Petty Officer at the applicant's station sent an email to the YN2 and stated that the applicant intended to carryover his leave instead of selling it. He asked whether the mistake was correctable. That same day, the YN2 sent an email to a fellow Coast Guard member at the Servicing Personnel Office and asked if the applicant's leave could be corrected before his reenlistment contract was corrected. The YN2 speculated that the Coast Guard would not return the applicant's leave until his reenlistment contract was corrected.

For the pay period ending on June 15, 2019, the applicant was paid \$2,779.40, less taxes, for 26 days of leave.

### VIEWS OF THE COAST GUARD

On May 13, 2020, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board grant relief in this case.

The JAG acknowledged that the CIW dated May 1, 2019, clearly indicated the applicant's desire to carryover 26 days of leave. The JAG stated that while the CIW is not a contract, it is the best evidence of the applicant's intent prior to the drafting of his reenlistment contract. The JAG argued that if the applicant's intention regarding his leave changed before he signed his reenlistment contract, his command should have reissued a corrected CIW.

The JAG argued that the Coast Guard committed an error in drafting the applicant's reenlistment contract. The JAG stated that the YN2 who drafted the applicant's reenlistment contract misunderstood the applicant's CIW and mistakenly indicated that he wanted to sell his leave. The JAG also argued that the YN2 erred again when she failed to confer with the applicant

intentions as to his leave. The JAG stated that since the applicant's CIW and reenlistment contract contradicted regarding his leave, an unnamed person from Servicing Personnel Office asked the YN2 to confirm the applicant's intentions. However, the JAG stated that there is no evidence that the YN2 conferred with the applicant as to his intentions with respect to his leave. Specifically, the JAG stated that there is no indication that the YN2 spoke with the applicant, emailed him, or obtained an updated CIW that was consistent with his reenlistment contract. Instead, the JAG stated that the YN2 simply responded, "the member wants to sell 26 days of leave."

The JAG noted that while the Coast Guard committed an error on his reenlistment contract, the applicant failed to provide any basis or explanation as to the reason he executed the reenlistment contract when it contained clear language that he was selling 26 days of leave. Regardless, the JAG argued that the Board should direct the Coast Guard to amend the applicant's enlistment contract to show that he intended to carryover 26 days of leave. The JAG stated that once the applicant returns the funds he received for the sale of his leave, the Coast Guard should return his 26 days of leave. Additionally, the JAG stated that the Board should direct the Coast Guard to assist the applicant in correcting any tax issues caused by the error.

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

On May 21, 2020, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. No response was received.

### **APPLICABLE LAW AND POLICY**

Article 2.A.20.b. of the Military Assignments and Authorized Absences Manual, COMDTINST M1000.8A, states that members can elect to carry their unused leave to a new enlistment in any Uniformed Service on the day following their discharge.

The "Purpose" section of the Career Intentions Worksheet states the following: "Use [of] this form is to convey career intentions to the SPO. If you wish to remain with the service, complete Extension/Reenlistment and Leave sections."

### **FINDINGS AND CONCLUSIONS**

The Board makes the following findings and conclusions based on 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.
2. The application is timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).
3. The applicant alleged that his reenlistment contract dated May 29, 2019, is 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 the military record, and the applicant bears the burden of proving by a preponderance of the

evidence that the disputed information is erroneous or unjust.<sup>2</sup> 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.”<sup>3</sup>

4. The applicant argued that his reenlistment contract dated May 29, 2019, is erroneous because it indicates that he was selling 26 days of leave. He argued that he intended to carryover his leave. To support his allegation, the applicant provided a copy of his CIW, dated May 1, 2019, in which he indicated that he intended to carryover 26 days of leave. The record also contains an email from the applicant’s Executive Petty Officer stating that the sale of leave was a mistake. The JAG acknowledged that the Coast Guard committed an error in drafting the applicant’s reenlistment contract and recommended granting his request. The Board agrees. The applicant clearly indicated on his CIW that he had intended to carryover 26 days of leave upon reenlisting. However, the YN2 who drafted the applicant’s reenlistment contract committed an error by writing in Block 8.b. of the contract that the applicant was selling his leave. The contradictory information was flagged by an unidentified member of the Servicing Personnel Office who asked the YN2 to confirm the applicant’s intentions with respect to his leave. However, as the JAG noted, the evidence shows that the YN2 failed to confer with the applicant. Instead, the YN2 incorrectly responded that the applicant wanted to sell his leave. Therefore, although the applicant initialed Block 8.b. of his reenlistment contract, which included a note that he was selling his leave, the Board finds that the preponderance of the evidence indicates that the applicant intended to carryover his leave on May 29, 2019, and the failure to do so was a result of an administrative error on the part of the Coast Guard.

5. To effect appropriate relief in this case, the Coast Guard should correct the reenlistment contract for the applicant’s reenlistment on May 29, 2019, to show that he was not selling 26 days of leave. The Coast Guard should also assist the applicant in correcting any tax issues caused by the error and its correction, including directing him to a Coast Guard legal assistance office. The Coast Guard should also adjust the applicant’s leave balance as needed to reflect the reversal of the sale of 26 days of leave in May 2019. The amount of the sale should be recouped from the applicant.

**(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).

ORDER

The application of [REDACTED] [REDACTED] [REDACTED] [REDACTED] for correction of his military record is granted. The Coast Guard shall correct his reenlistment contract dated May 29, 2019, and other military records to show that he did not sell any leave and instead carried over 26 days of leave. The Coast Guard shall assist him in correcting any tax issues caused by this error and its correction and direct him to a Coast Guard legal assistance office. The Coast Guard shall adjust his leave balance as needed to reflect the reversal of the sale of leave associated with his May 29, 2019, reenlistment and recoup any amount he owes as a result of these corrections.

August 6, 2021

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]