

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2023-018


Lieutenant Commander (O-4/LCDR)

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 February 22, 2023, and assigned it to an attorney to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated July 11, 2024, 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 Lieutenant Commander (LCDR/O-4) who was honorably transferred to the United States Coast Guard Retired Reserve, effective July 1, 2023, asked the Board to correct his record by overturning the Coast Guard's decision to not select him for retention.

The applicant states on July 15, 2022 he was notified by Coast Guard Reserve Personnel Management Branch (RPM) that he was up for retention before the Coast Guard Retention Board that was convening on July 18, 2022. The applicant provides that the RPM further informed him that his Officer Evaluation Report (OER), for the period covering June 01, 2020, through April 30, 2022, had not been received. The applicant states that after receiving notice that his OER had not been received by the Coast Guard Retention Board, he discovered that his OER had been delayed due to an active-duty member being on leave. He also contends that the active and reserve command at his unit advised him that they were not aware of a requirement in the Promotion Year 2022 Reserve Officer Corps Management Plan that stated that LCDRs with over 18 years of service were up for retention and they were not aware of ALCGRSV 027/22 advising that rating chains and reviewers shall expedite OER submissions to ensure eligible officers have up to date records on file before the Board convened. The applicant alleges that he was not selected for retention because of this discrepancy with his OER.

To support his claim, the applicant submitted an email exchange he had with the RPM on July 15, 2022, in which they notified him that his OER, for the period covering June 01, 2020,

through April 30, 2022, had not been received. The applicant responded that he was advised that the OER was with his rating chain.

SUMMARY OF THE RECORD

The applicant, a selected reservist, enlisted in the Coast Guard on February 11, 2003, as a Seaman Apprentice (SA/E-2). The applicant achieved the rank of LCDR on October 1, 2021, and was honorably transferred to the Retired Reserve without pay (RET-2), effective July 1, 2023, after the Coast Guard did not select him for retention.

On March 29, 2022, the Coast Guard issued ALCGPSC 044/22, SUBJ: 2022 OER Submission and Promotion Year (PY) 2023 Officer Selection Boards which notified all Coast Guard officers to prepare for PY23 boards and panels. The message specifically provided in regard to Inactive Duty Promotion List (IDPL) officers, that LCDRs with 18 or more years of service towards retirement should not delay their regularly scheduled OERs.

On April 7, 2022, the Coast Guard issued ALCGPSC 052/22, SUBJ: PY23 Schedule of Officer Personnel Boards and Panels - PSCNOTE 1401, which provided a schedule of PY23 boards and panels, and which notified all reserve officers regarding the PY23 retention boards, to include the schedule of all IDPL board and panels. PSCNOTE 1401 stated that the Coast Guard Retention Board would convene from July 18, 2022, through July 22, 2022, for LCDRs with 18 or more years of service towards retirement.

On June 8, 2022, the Coast Guard issued ALCGRSV 019/22 - SUBJ: Promotion Year 2023 (PY23) Inactive Duty Promotion List (IDPL) Selection, Retention and Continuation Boards for CAPT, CDR, LCDR, and LT, which notified all reserve officers of the PY23 retention boards and the conditions that put a member before the Retention Board. The message notified the applicant of the Coast Guard Retention Board date and conditions and further provided that the Board would recommend 11 LCDRs for non-retention.

On June 27, 2022, the Coast Guard issued ALCGRSV 027/22 - SUBJ: PY23 IDPL Lieutenant Commander Retention Board Candidate Announcement, which notified the applicant that he would be considered by the Coast Guard Retention Board. The message again notified the applicant that the Retention Board would recommend 11 LCDRs to not be retained. The message also provided that rating chains and administrative reviewers should expedite OER submissions to ensure eligible officers have up-to-date records on file before the board convenes.

On July 15, 2022, the RPM emailed the applicant and notified him that the Coast Guard Retention Board had not received his OER for the period covering June 01, 2020, through April 30, 2022.

On July 18, 2022, the applicant's OER was signed by his reporting officer.

On July 20, 2022, Coast Guard Retention Board convened to recommend reserve LCDRs on the inactive duty promotion list for retention in an active status. The retention zone consisted of 90 LCDRs on the IDPL, to include the applicant.

On July 20, 2022, the applicant's OER was signed by the applicant's reviewing officer. The applicant signed his OER that same day.

On July 21, 2022, the RPM received the applicant's OER via e-mail. The OER had several errors, to include the applicant failing to sign the first section of the OER.

On July 22, 2022, the Coast Guard Retention Board adjourned. The Retention Board did not recommend the applicant for retention.

On August 26, 2022, the Secretary approved the Proceedings, Findings, and Recommendations of the Coast Guard Retention Board convened on July 20, 2022, to recommend reserve LCDRs on the inactive duty promotion list for retention in an active status.

On December 13, 2022, the OER was returned to the applicant and his rating chain for correction.

On December 16, 2022, the Coast Guard validated the applicant's OER.

Effective July 1, 2023, the Coast Guard transferred the applicant to the Retired Reserve without pay with an honorable characterization of service.

VIEWS OF THE COAST GUARD

On June 28, 2023, the Coast Guard submitted an advisory opinion in which it recommended that the Board deny relief in this case. The Coast Guard states that there was ample communication to the applicant regarding the PY23 board and schedules. The Coast Guard continues that the applicant's 2022 OER was not received timely for inclusion in the Coast Guard Retention Board's proceedings. Further, the OER that was received by the RPM after the Retention Board convened had multiple errors, to include the applicant's failure to sign part of the OER. The Coast Guard provides that the proceedings of retention boards are not disclosed, and that the applicant has presented no evidence to support his assertion that he was not selected for retention because he did not timely submit a current OER.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

No response was received.

APPLICABLE LAW AND POLICY

Pursuant to 14 U.S.C. § 3752, whenever the Secretary determines that it is necessary to reduce the number of reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the reserve officers in that grade in an active status who have 18 years or more of service for retirement, except those officers who-

- (1) are on extended active duty;
- (2) are on a list of selectees for promotion;
- (3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or
- (4) have reached age 59 by the date on which the retention board is convened.

The Coast Guard's Officer Accessions, Evaluations, and Promotions Manual, COMDTINST M1000.3 (series), establishes Coast Guard policy and procedures concerning the accessions, evaluations, personnel boards, and promotions for the Coast Guard officer corps and provides the following regarding Boards, at Article 1.B.2.f:

(1) Board Actions. Boards normally meet in January and July to recommend reserve officers for new active duty agreements or extensions of their current agreements. Special boards may be convened occasionally to meet service needs. The boards normally recommend officers they consider best-qualified for retention on active duty. As service needs dictate, boards may be convened on a fully-qualified basis or not at all. If no board is convened, Commander (CG PSC-OPM) will consider all extensions and requests for new agreements. When a board is convened to consider officers on a fully-qualified basis, the board shall apply the procedures delineated in Article 6.A.5. of this Manual, with the following exception: In developing the fully qualified standards, the records of officers who hold the same grade as the applicant shall be used. The board's focus should be on reviewing the records for retention of the officers in the current grade, not for promotion purposes.

(2) Board Considerations. The board considers each officer for retention based on the officer's performance record, special qualifications, educational accomplishments, potential for future development as a regular officer, command endorsement, and service needs.

(3) Release of Officers Not Selected for Retention. The service releases to inactive duty on their scheduled release date those officers whose agreements expire or whose requests for retention have not been approved.

Further, COMDTCHANGENOTE 1000 to this Manual (November 28, 2016), at § 5.e states that:

All Inactive Duty Promotion List (IDPL) officers who are subject to a retention board must submit an OER.

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.

2. The applicant knew, or should have known, no later than June 8, 2022, that his OER needed to be provided to the Coast Guard Retention Board prior to July 18, 2022, to ensure that the Retention Board had his OER before it convened.

3. The applicant did not timely provide his OER to the Coast Guard Retention Board. The RPM received the applicant's OER on the day the Retention Board convened to consider LCDRs for retention, July 20, 2022. That OER, however, had multiple errors requiring it be returned to the Command for corrections.

4. The Coast Guard Retention Board does not share its proceedings and thus there is no direct evidence that the Retention Board's decision to not retain the applicant was based on the applicant's failure to provide an OER to review. However, the Board finds it reasonable to conclude that the lack of an OER, covering almost two years of the applicant's most recent performance record, may have been a factor in the Retention Board's decision to not retain the applicant.

5. The applicant's failure to timely provide the OER to the Coast Guard Retention Board was caused in part by his rating chain's failure to complete his OER prior to the day the Retention Board convened to consider LCDRs for retention. The applicant's rating chain also shares partial responsibility for the errors that were in the OER when it was initially submitted to RPM. However, while the applicant contends his OER was delayed in the routing chain while an active duty member was on leave, there is no indication that between June 8, 2022, and July 15, 2022, the applicant took any action to ensure that his OER would be timely submitted to the Coast Guard Retention Board. In addition, the applicant shares responsibility for his OER being initially submitted to RPM with errors, especially as it pertains to his failure to sign the first section of the OER. As the applicant bears partial responsibility for his failure to timely provide a properly completed OER to the Coast Guard Retention Board, a failure that was likely a factor in the Coast Guard's decision to not retain him, the applicant has failed to establish that the Coast Guard's decision was erroneous or unjust.

6. The applicant has not proven by a preponderance of the evidence that he has suffered an error or injustice warranting relief in this case. Accordingly, the applicant's request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of Lieutenant Commander [REDACTED] [REDACTED] USCG, for correction of his military record is denied.

July 11, 2024

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