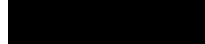


**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2025-034**

  
LT/O3 (active)

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**FINAL DECISION**

This proceeding is conducted according to the provisions of 10 U.S.C. § 1552. The Chair docketed the case after receiving the completed application on November 12, 2024, 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 September 11, 2025, 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 asserts the presence of a negative page seven (Form 3307) dated March 7, 2023, within his military record is not in compliance with privacy laws and Coast Guard policy. The applicant received a negative page seven from his command after an alleged domestic violence incident, which ultimately no charges were determined by civilian authorities. The command documented the incident using the negative page seven and ordered the applicant to complete twelve (12) weeks of individual therapy. The applicant signed the negative page seven. The applicant became eligible for promotion but was passed over for the promotion to O4. The applicant alleges the cause of this failed promotion is due to the unjust and erroneous comments made within the disputed negative page seven. The applicant seeks removal of the negative page seven, an opportunity to be reviewed by a Special Selection Board (SSB), and if selected, to receive back pay and time in grade to the date of his previous promotion board review.

**SUMMARY OF THE RECORD**

On May 6, 2022, an investigation by Child Protective Services began involving the applicant as the parent though the issue was raised due to the wife seeking medical treatment for injuries incurred after an interaction with the applicant. The wife notes the applicant did not hit her, she was running too fast to reach her phone while they argued over the children. The applicant took her phone to prevent her from taking their children away. The applicant left the home with his wife's cellphone.

On July 12, 2022, Child Protective services submitted a letter to the applicant informing him that after review of the complaint the State of  did not find the applicant to

be valid. Child Protective services closed the case against the applicant. CGIS created a report based on this event but failed to share the conclusion that the state reflected the complaint to be unfounded.

On March 7, 2023, the applicant received the disputed negative page seven depicting a confrontation with his spouse. The spouse stated the applicant did not hit her. The two were in an argument over the care of the children and the applicant took the spouses phone to ensure she could not leave with his children. The spouse went to the hospital for her injuries, which triggered a call to Child Protective services and then to the military police to notify the applicant's command. The negative page seven ordered the applicant to obtain 12 weeks of individual therapy and report the completion of therapy to the Family Advocacy Specialists.

In 2024, the applicant was passed over for promotion to O4. The applicant claims the inclusion of the negative page seven is the cause for not being selected.

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

On July 15, 2025, a Judge Advocate (JA) for the Coast Guard submitted an advisory opinion in which he recommended that the Board deny in this case and adopted the findings and analysis provided in a memorandum prepared by the Coast Guard Personnel Service Center (PSC).

PSC determined that the disputed negative page seven (Form 3307) should not be removed from the applicant's record. The JA notes that the applicant cites the Health Insurance Portability and Accountability Act (HIPAA) as an authority prohibiting the content of his disputed negative page seven, however the JA asserts HIPAA does not prevent military commanders from ordering members to seek treatment, which is what the negative page seven required.

The CGIS report was triggered by a report made to Child Protective Services, which ultimately was determined to be unfounded by [REDACTED] State authorities. The applicant's command used the report produced by CGIS to support the creation of the negative page seven, which ultimately ordered the applicant to "obtain 12 weeks of individual therapy." The JA acknowledges that the CG-3307 (negative page seven form) cannot "be used to document the diagnosis or treatment of medical conditions."<sup>1</sup> However, the JA asserts command created an order for therapy, which is not a medical use according to the JA.

The JA recommends the Board deny relief.

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

On July 23, 2025, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty (30) days. The applicant responded rejecting the views of the Coast Guard.

The applicant asserts that the HIPAA's Military Command Exception does not extend to the Selection Board for promotion. Therefore, the insertion of "12 week therapy session" into the

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<sup>1</sup> COMDTINST 1000.14D

disputed negative page seven violates the applicant's right and Coast Guard policy.<sup>2</sup> It is appropriate to view the ordering of individual therapy sessions as a medical directive and medical information regarding the applicant. Receiving therapy is associated with mental and behavioral health and therefore should not be viewed by a promotion board in contradiction to Coast Guard policy.

Additionally, the applicant asserts that the Coast Guard claiming that the negative page seven is administrative in nature is a false narrative. The document is negative in nature surrounding a civilian matter that does not include the final determination from the [REDACTED] State to be unfounded. Instead, there appears to be a determination of events as if they are facts and these events described are not administrative in nature. The applicant asserts that the negative page seven creates misleading and incomplete information.

The applicant argues that disputed negative page seven created a prejudicial effect upon the applicant's ability to promote due to the reveal of healthcare treatment history, which is in violation of federal law and Coast Guard policy. The applicant requests removal of the negative page seven, the opportunity to sit for a Special Selection Board, and, if selected, be back dated the promotion to his previous board date in 2024 with all entitlements back dated and paid as well.

#### APPLICABLE LAW AND POLICY

The Board may correct errors or remove injustices in a service member's records pursuant to 10 U.S.C. § 1552(a).

(1) Error can be defined as either legal and/or factual.

(2) Injustice, when not also error, is treatment by the military authorities that "shocks the sense of justice."<sup>3</sup> In addition, the Board has the authority to decide whether an injustice exists in an applicant's record on a case-by-case basis. The application must file within three years after discovery or reasonably should have discovered the alleged error or injustice for a correction or relief.<sup>4</sup>

Art. 9.e of Administrative Remarks, Form CG-3307, COMDTINST M1000.14D

e. Administrative Remarks, Form CG-3307s, will not be used to document the diagnosis or treatment of medical conditions. If there is a need to refer to a member's medical condition in an Administrative Remarks, Form CG-3307, the specific medical condition must not be referenced.

Art. 6.i of Documents viewed by Coast Guard Officer Promotion and Special Boards, COMDTINST 1410.2

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<sup>2</sup> Article 7.a. of COMDTINST M1410.2, "Unless essential to the purpose of a special board, it is Coast Guard policy that the following sets shall not be provided to officer promotion boards:...Medical Data."

<sup>3</sup> *Sawyer v. United States*, 18 Cl. Ct. 860, 868 (1989) citing *Reale v. United States*, 208 Ct. Cl. 1010, 1011, cert. denied, 429 U.S. 854, 50 L. Ed. 2d 129, 97 S. Ct. 148 (1976).

<sup>4</sup> 33 C.F.R. § 52.22

Medical Data: This includes readiness data such as dates of recent medical/dental exams, medical duty status, health care treatment history, and medical waivers. This does not include weight data and non-privileged information.

7.a. Unless essential to the purpose of a special board, it is Coast Guard policy that the following data sets shall not be provided to officer promotion boards: Personal Demographic Information, Sensitive Assignment Data, Medical Data, Security Clearance Data. (Paragraph 6.d, h, i, and k respectively.)

### 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(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

2. The applicant brings this request within three years of its occurrence making the application timely for review.

3. The applicant has asserted several violations of Coast Guard policy and federal law regarding the protection of medical treatment history. The order for 12 weeks of individual therapy within the disputed negative page seven places medical treatment history in front of a promotion board in violation of Coast Guard policy. Additionally, the applicant fairly asserts that the negative page seven omits that the complaint proved to be unfounded, and the [REDACTED] State ended the investigation. This is the only incident the applicant was accused of harming his spouse and it was proven to not be a valid accusation. The applicant's surrounding record includes high marks and strong performance reviews outside of this one negative page seven.

4. The AO insists that the negative page seven is administrative in nature. However the conduct described, and the order of medical treatment is not an administrative act. It does appear the command desired to capture the issue into the applicant's record but failed to create a complete record by not concluding the results of the investigation.

5. There is a strong stigma against seeking mental health support and therefore the policy around ensuring promotion boards do not review any documents alluding to the applicant's health record is imperative. The applicant faced an unreasonable prejudice by having the disputed negative page seven leave out the finding by [REDACTED] State that the complaint was unfounded and include the order of individual therapy, which is medical information regarding mental health. This was not an appropriate use of the negative page seven (CG-3307 Form).

6. Lastly, the use of a negative page seven in this manner strips the applicant from due process or rebuttal. He is unable to add to his military record a statement of disagreement or consult an attorney. The document is created as if documenting a potential UCMJ violation, but because of inadequate evidence to support a UCMJ violation command resorted to a negative page seven. This is not the purpose of a negative page seven as outlined in Coast Guard policy.

7. The Board, in full view of all facts, assertions, and applicable laws, views this case as one containing a harm based on the inclusion of a medical treatment plan and the incomplete reciting of the incident being described. For these reasons, the Coast Guard should remove the negative page seven and permit a Special Selection Board to review the applicant for the promotion to O4.

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

**ORDER**

The application of LT [REDACTED], USCG, for correction of his military record is granted. The disputed negative page seven (Form 3307) issued March 7, 2023, and any related documentation, will be removed from the applicant's record entirely. The Coast Guard will provide a Special Selection Board for the applicant to be reviewed for O4 without the document within his record. If selected to O4, the applicant will be back dated to the rank of O4 to the previous selection board that he was passed over from and include back pay and all entitlements.

September 11, 2025

