

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 2000-105

FINAL DECISION

[REDACTED]:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on March 29, 2000, upon the BCMR's receipt of a complete application for correction of the applicant's military record.

The final decision, dated June 1, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

REQUESTED RELIEF

The applicant, a commander (CDR) on active duty in the Coast Guard, was awarded only partial relief by the CG Personnel Records Review Board (PRRB) because the PRRB did not have jurisdiction to grant full relief. The applicant applied to this Board for the requested relief that the PRRB could not grant him.

PRRB PROCEEDING

The applicant asked the PRRB to remove all comments by the Reviewer on his officer evaluation report (OER) for the period July 1997 to April 1998 (disputed OER) and to restore his date of rank and all back pay retroactive to the date consistent with being selected during the July 1998 CDR Selection Board. On March 3, 2000, the PRRB expunged the Reviewer's comments and any related correspondence, and it removed the record of the applicant's non-selection to CDR by the PY'99 Promotion Board. The PRRB did not grant back date of rank or back pay and allowances, because it was not authorized to do so.

VIEWS OF THE COAST GUARD

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The Coast Guard PRRB found that the Reviewer recommended that three of the Supervisor's marks be lowered. The PRRB found that this action constituted error because it denied the applicant's rating chain the opportunity to address the reviewer's concerns. The PRRB further found that there was nexus between this error and the applicant's non-selection to CDR the first time.

On May 3, 2000, the Chief Counsel of the Coast Guard adopted the PRRB decision in this matter as the advisory opinion of the Coast Guard, except that the Chief Counsel recommended that the BCMR grant full relief as follow: "I recommend relief be granted by correcting Applicant's date of rank (DOR) to Commander (O-5) . . . He also should receive all back pay and allowances due as a result of this correction."

APPLICANT'S VIEWS OF THE COAST GUARD

On May 4, 2000, the BCMR sent a copy of the views of the Coast Guard to the applicant along with an invitation to respond to those views within 15 days. On May 9, 2000, the Board received a response from the applicant stating that he had no objection to the Coast Guard's recommendation.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and the Coast Guard, the military record of the applicant, the applicable decision of the Personnel Record Review Board, and applicable law.

1. The Board has jurisdiction of the case pursuant to section 1552 of title 10, United States Code. The application was timely.
2. After the applicant obtained partial relief from the Personnel Records Review Board, he applied to the BCMR for the relief which the PRRB was not authorized to grant.
3. The Reviewer's comments contained recommendations to change by lowering several numerical marks given the applicant by the Supervisor. The Reviewer did not comment on or personally discuss with the other members of the rating chain the discrepancies, conflicts, or inconsistencies which gave rise to his changes.

4. The Board agrees with the following conclusion of the Chief Counsel: "The Reviewer's failure to afford the Rating Chain the opportunity to respond to his concerns before finalizing his comments was a clear violation of the regulations."

5. Accordingly, the applicant's date of rank should be changed to the position on the active duty promotion list that he would have held had he been selected by the first Commander Promotion Board to review his record. He should also receive all back pay and allowances due as a result of this correction

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application to correct the military record of _____, USCG is granted by correcting his commander date of rank to the date it would have been if he had been selected for promotion by the commander selection board that met in 1998. The Coast Guard shall pay him any back pay and allowances he is due as a result of this correction.

