


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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-101


LT/O-4 (former)

FINAL DECISION

This proceeding was conducted by the Board for Correction of Military Records of the Coast Guard (hereinafter “Board”) 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 October 10, 2023, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated April 10, 2025, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

INTRODUCTION

The applicant, a former Coast Guard Lieutenant Commander (LCDR/O-4), has requested correction of his military records relating to his integration from the Coast Guard Reserve to the Regular component, which occurred on May 26, 2014. The applicant has requested that his oath accepting appointment to the Regular component be found invalid, and his post-May 2014 service be reverted from Active Duty (AD) in the Regular component to Extended Active Duty (EAD) in the Reserve component. In the alternative, the applicant has requested that the date of his integration into the Regular component be changed to December 1, 2014, the same date as his promotion from Lieutenant Junior Grade (LTJG)/O-2 to Lieutenant (LT)/O-3. According to the applicant, either requested correction would significantly impact his early retirement pay calculations.

SUMMARY OF THE RECORD

The applicant previously served in the United States Marine Corps. He began his Coast Guard career on June 1, 2012. On that date, he signed an “Active Duty Agreement”

for a five-year period of service ending on May 31, 2017. The agreement specified that it was entered into pursuant to 10 U.S.C. §§ 12311 and 12312.

Also on June 1, 2012, the applicant executed an “Acceptance and Oath of Office” form (CG-9556). In pertinent part, the form stated: “I accept this appointment in the United States ~~Coast Guard~~ / Coast Guard Reserve (strike out one) in the grade of Lieutenant Junior Grade with rank as such from (date of rank) 01 June 2012.” Because “Coast Guard” was stricken, the form clearly indicated that the applicant’s appointment was to the Coast Guard’s Reserve component.

On March 4, 2014, Coast Guard message ALCGOFF 014/14 was issued with the subject line “Officer Integration.” This message stated that Senate confirmation would be sought to appoint 141 Reserve and temporary Regular officers to permanent Regular officer status in accordance with Article 1.A.8. of COMDTINST M1000.3. The cited policy allowed Reserve and temporary Regular officers selected by a best-qualified active-duty promotion list (ADPL) Promotion Board to be integrated as permanent Regular officers. Among the 141 officers listed was the applicant, at number 50. ALCGOFF 014/14 went on to state that upon approval, each officer would be notified via email with a CG-9556 enclosed.

On May 26, 2014, the applicant executed a second oath on a CG-9556. Like the CG-9556 executed on June 1, 2012, this form reflected appointment in the grade of LTJG/O-2, with the date of rank being June 1, 2012. This CG-9556, however, did not specify whether the applicant was accepting an appointment in the Reserve or Regular Coast Guard. The CG-9556 stated further: “This information was transmitted by Commandant’s letter/message (ssic/dfg) 1401 / dated 04 March 2014.” The referenced Commandant’s message dated March 4, 2014, was ALCGOFF 014/14, summarized directly above.

A Statement of Creditable Service dated November 28, 2017, indicated that the applicant entered the Coast Guard Reserve on EAD status on June 1, 2012, entered the Regular component on AD status on May 26, 2014, and returned to the Reserve component on August 26, 2017, this time on Selected Reserve (SEL) status.

On October 10, 2023, the Board received the applicant’s submission requesting correction of the date of his move from the Reserve component to the Regular component.

On June 30, 2024, a memorandum was issued notifying the applicant that he had completed 20 years of satisfactory federal service for retirement purposes. On July 10, 2024, the applicant was transferred to Retired Reserve Without Pay (RET-2) status and informed that he would receive retirement pay upon reaching age 60, or earlier if determined to be eligible for early retirement.

APPLICATION TO THE BOARD

The applicant argued that the Coast Guard committed an error when it processed his integration into the Regular component on May 26, 2014. He stated that he entered service as a Reservist on an EAD contract and was “supposed to” remain in the Reserves until he promoted to LT/O-3. He recalled that when he was selected for LT, “Coast Guard Headquarters” told him he needed to execute a new oath of office to integrate into the Regular component, but did not tell him how or when to complete the oath form. For this reason, the applicant stated, he incorrectly filled out the form and was switched to AD status in the Regular component on May 26, 2014, instead of on his promotion date six months later, on December 1, 2014.

The applicant stated that he was “not sure the oath of office that was conducted on [May 26, 2014] ha[d] any legal validity” because the form did not indicate which component the oath was being taken for (Coast Guard or Coast Guard Reserve). He requested that if the Board finds the oath invalid, it revert his Coast Guard time to Coast Guard Reserve on EAD status. He requested that alternatively, if the Board finds the oath valid, it correct his component change date from May 26, 2014, to December 1, 2014, when he was promoted to LT.

The applicant stated that either of these corrections would have a significant impact on his Reserve Early Retirement (RET-1) calculations.

VIEWS OF THE COAST GUARD

In an advisory opinion dated February 5, 2025, a Coast Guard Judge Advocate (JA) adopted the facts and analysis provided by the Coast Guard Personnel Service Center (PSC) in an accompanying memorandum. The JA and PSC recommended the Board deny relief in the applicant’s case, and they argued the following:

1. The application is untimely, and the applicant provided no justification for the untimeliness.
2. Under Article 3.A.11. of the Officer Accessions, Evaluations, and Promotions Manual, COMDTINST M1000.3 (September 2011), integration becomes effective upon acceptance and execution of the CG-9556 form. The applicant signed this form on May 26, 2014.
3. The processing of the applicant’s appointment in May 2014 appears consistent with the current PSC practice of executing integrations during that time of year. The applicant’s assertion that he should have been integrated in December 2014 to coincide with his promotion to LT/O-3 would not have been the norm then or now.

4. No record exists of the applicant's chain of command requesting to delay his appointment in accordance with COMDTINST M1000.3 (September 2011).

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

The Board provided the applicant with the Coast Guard's views on February 9, 2025, and invited him to submit a response within 30 days. As of the date of this decision, the applicant has not submitted a response.

APPLICABLE LAW AND POLICY

Board Proceedings

The Board is authorized to correct military records to remedy an error or injustice. 10 U.S.C. § 1552(a). 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. 33 C.F.R. § 52.24(b). 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." *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

An application to the Board must be filed within three years from the date on which the applicant discovers the alleged error or injustice underlying his or her claim. 10 U.S.C. § 1552(b); 33 C.F.R. § 52.22. The Board may excuse the untimeliness of an application if it is in the interests of justice to do so. *Id.* In determining whether to waive the time bar, the Board should consider both the reasons for the delay and the potential merit of the claim based on a cursory review. *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992).

Coast Guard Policy

Chapters 1 and 3 of the Coast Guard's manual for Officer Accessions, Evaluations, and Promotions, COMDTINST M1000.3 (series) (hereinafter "Officer Accessions Manual") provide relevant guidance. Chapter 1 details the process for integrating Reserve officers as permanent Regular officers. Chapter 3 addresses permanent appointments of Reserve officers. The version of the manual published in September 2013, COMDTINST M1000.3A, was in force during the relevant period.¹ In pertinent part, it provides the following:

¹ In its memorandum accompanying the Coast Guard's advisory opinion, the PSC cited to the September 2011 version of the Officer Accessions Manual. The error is harmless, however, as the sections relevant to this case were unchanged in the September 2013 version.

1.A.8. Integrating Reserve and Temporary Regular Officers

1.A.8.a. General

- (1) General.... Once an active duty promotion list (ADPL) best-qualified promotion board selects reserve and temporary regular officers, the service expects them to possess the potential and skills for long-term active service and they become eligible to integrate as permanent regular officers.

- (2) Integration Policy. The integration policy for reserve officers and temporary regular officers is as follows.
 - (a) Integration Mandatory. Reserve and temporary regular officers appointed from OCS and direct commission reserve officers, who have been selected by a best-qualified ADPL promotion board, must integrate as permanent regular officers.

1.A.8.b. Integration Requirements

To qualify for integration, a reserve or temporary regular officer must meet these integration requirements. Normally, no waivers will be granted. The officer must:

- (3) Have completed two years' continuous active Coast Guard duty (as of 1 March following selection by the best-qualified promotion board) during the current active duty period.
- (4) Have been selected for promotion by any ADPL board under the best-qualified selection system.

1.A.8.c. Integration Process

- (1) Commander (CG PSC) Responsibility. Once a reserve or temporary regular officer has been selected by their first best-qualified ADPL selection board as discussed above:
 - (a) Request for Appointment Authority. Correspondence requesting appointment authority and Senate confirmation of all officers eligible for permanent status as permanent regular officers will be initiated by Commander (CG PSC); and,
 - (b) Notification of Eligibility to Integrate. A general message will be released advising the officers of their eligibility to integrate. The message will stipulate that officers who are required to integrate but elect not to must notify Commander (CG PSC-OPM) of their intention and these officers should expect release from active commissioned service in accordance with Article 1.A.9. of this Manual.

- (d) Appointment Letter. Once the review is complete, an appointment letter will be mailed to eligible officers via their immediate chain of command. It will direct the command to administer the oath of office.

1.A.8.d. Appointment Process

Article 3.A.11. of this Manual outlines the procedures to appoint reserve and temporary regular officers selected for integration as permanent Regular commissioned officers.

3.A.11. Procedures to Permanently Appoint Reserve and Temporary Officers

3.A.11.a. Appointments

With the advice and consent of the Senate, the President shall appoint . . . reserve officers selected for integration as permanent regular officers. Commander (CG PSC-OPM-1) will transmit appointment letters via the chain of command for delivery to the officer concerned (14 U.S.C. § 211).

3.A.11.b. Acceptance

An appointment as a permanent commissioned officer becomes effective only when the officer concerned accepts the appointment by completing the Acceptance and Oath of Office, Form CG-9556, to indicate acceptance; an additional letter is not required.

3.A.11.c. Oath of Office

An oath of office is required; for this purpose, Commander (CG PSC-OPM-1) transmits the Acceptance and Oath of Office, Form CG-9556, with the appointment letter. The officer shall not execute the oath of office before the date of rank specified in the appointment letter. After completing the oath, the officer forwards the original to their Administration Office and one copy to Commander (CG PSC-OPM-1).

3.A.11.d. Pay and Allowances

The pay and allowances of officers appointed under this Article remain unchanged since the appointments are in the grade in which the officers are serving or a lower grade.

3.A.11.f. Delaying Appointment

An officer’s records available at Commander (CG PSC-PSD-MR) are complete only up to the date of the latest officer evaluation report; more than six months may elapse between that date and when an appointment letter is issued. Therefore, each officer in the chain of command is responsible for delaying an appointment letter if, in his or her knowledge, the appointee has disqualified him- or herself in the elapsed interval. Delaying an appointment letter consists of returning it to Commander (CG PSC-OPM-1) together with a succinct explanation of the circumstances which prompted the action. A disqualification here means any circumstance which casts serious doubt on the moral or professional qualifications of the officer concerned for appointment as a permanent Coast Guard officer.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant’s military record, his submission, the Coast Guard’s submission, and applicable law and policy:

1. The Board finds that it has jurisdiction under 10 U.S.C. § 1552(a), as the applicant is seeking correction of an alleged error or injustice in his military records. The Board finds that the applicant has exhausted all other 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 declined a hearing before the Board and requested that his case be decided based on the records and evidence submitted.

3. The application is untimely. Under 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22, applications must be filed within three years of when the applicant discovered, or reasonably should have discovered, the alleged error. The applicant's request is based on his contention that the CG-9556 he executed on May 26, 2014, was processed erroneously. The application was received by the Board in October 2023, more than nine years later. Although the Servicemembers Civil Relief Act (SCRA) acted to toll the Board's three-year statute of limitations during the applicant's active-duty service, he transferred to the Selected Reserve on August 26, 2017, and there is no indication he served on active duty after that date.² Based on his last day of active duty service, the applicant was required to apply to the Board by August 25, 2020.

4. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.³ In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without "analyz[ing] both the reasons for the delay and the potential merits of the claim based on a cursory review" to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that "the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review." Pursuant to these requirements, the Board finds the following:

a. Regarding his delay in applying to the Board, the applicant has offered no explanation. The Board recognizes that it is unlikely that any Coast Guard member in the applicant's position would become aware of the potential impact of a change from Reserve EAD to Regular AD status on retirement pay until at or near retirement, which, in this case, was approximately 10 years after execution of the CG-9556 in May 2014. This does not mean, however, that the applicant was unaware of or unable to challenge the designation of May 26, 2014, as his integration date at the time, or during the intervening 10 years. For example, a Statement of Creditable service was added to the applicant's personnel file in November 2017, and showed his AD service in the Regular component began on May 26,

² See 50 USC § 3936(a) (SCRA provision defining military service as full-time duty in the active military); *Detweiler v. Pena*, 38 F.3d 591 (D.C. Cir. 1994) (holding SCRA's tolling provision applies to this Board and other BCMRs during a servicemember's active duty service).

³ 10 U.S.C. § 1552(b); 33 C.F.R. § 52.22.

2014. Thus, the applicant was presumably aware of the alleged error for a number of years, but chose not to seek a correction. Under these circumstances, the Board does not find the reason for the applicant's delay in filing to be compelling, particularly when he has not explicitly presented one.

b. A cursory review shows that the application lacks potential merit. The applicant initially contends that the CG-9556 executed in May 2014 was invalid because it did not specify a component. On this point, the Board notes that the CG-9556 in question referred to ALCGOFF 014/14, which made clear that the applicant was among the Reserve officers who were to be appointed to the Regular component. In addition, in his submission to the Board, the applicant stated that upon being "selected for LT," he was told to execute the second CG-9556 "to integrate to the Regular AD." These facts, and the overall context, indicate that the applicant was fully aware of the purpose of the CG-9556 at the time of its execution. Moreover, the applicant has not pointed to any policy or other authority, and the Board can find none, to suggest that a CG-9556 may be invalidated if it fails to specify a component by crossing out either "Coast Guard" or "Coast Guard Reserve." Upon consideration of the foregoing, the Board finds that the evidence strongly suggests the applicant knew when he executed the oath in May 2014 that it was for an appointment to the Regular component. The Board also finds no basis to consider the oath invalid based on a minor technical error.

The Board turns next to the applicant's request that the date of his transfer from the Reserve to the Regular component be changed to December 1, 2014. The Board first notes that this request appears to be based solely on the applicant's own understanding that he was "supposed to" stay in the Reserve until he promoted to O-3. This understanding, however, is not supported by the evidence. The CG-9556 executed in May 2014 specified that the applicant was accepting an appointment in the grade of LTJG (O-2). As noted above, the CG-9556 referenced ALCGOFF 014/14, which also listed the applicant's rank as LTJG. With LTJG/O-2 clearly stated on its face, the applicant executed the oath on May 26, 2014. Coast Guard policy in force at the time provided that integration and appointment to the Regular component were effective upon execution of the oath.⁴ Neither that nor any other Coast Guard policy required or suggested that such an appointment coincide with a Reserve officer's promotion to O-3. In its views submitted to the Board, the Coast Guard PSC explained that the applicant's appointment in the month of May was consistent with the way such appointments were processed at the relevant time, and that a six-month delay (to December 1, 2014 in the applicant's case) would not have been the norm then or now. After review of the foregoing, the Board does not find the applicant's request for a change in his component transfer date to be supported by the record or Coast Guard policy in place at the time.

⁴ See Officer Accessions, Evaluations, and Promotions, COMDTINST M1000.3A § 3.A.11.b. (September 2013).

The Board next notes that the application does not make clear why an amendment to the applicant's component change date is being requested. The applicant suggests only that the requested correction(s) would have a "significant impact" on his RET-1 retirement pay calculations. In this regard, the Board observes that the application was submitted in October 2023, prior to the applicant's transfer to RET-2 status in July 2024. As noted above, the memorandum transferring the applicant to RET-2 status informed him that he would receive retirement pay at age 60 unless he was approved for early retirement (RET-1 status). It is unclear to the Board whether the July 2024 memorandum amounted to a denial of RET-1 status, or if not, whether the applicant made any subsequent request for RET-1 status.

Reserve retirement pay generally begins at age 60. The applicant was 43 when he submitted his application to the Board in October 2023. Although he does not explain, the Board infers that at the time of his application, the applicant anticipated being granted RET-1 status. Pursuant to 10 U.S.C. § 12731(f)(2), the Reserve retirement age may be reduced in three-month increments for every 90 days of certain kinds of active duty service in response to a "call or order to active duty." The applicant likely believed his EAD service qualified. In this light, it makes sense that the applicant wanted to retroactively extend his EAD service for an additional six months (between May 26 and December 1, 2014).

Based on the record before the Board, however, the applicant has not been granted RET-1. If this was the result of a decision by the Coast Guard, this would likely mean that the Coast Guard determined the applicant's Reserve EAD service was not in response to a "call or order to active duty," and so did not qualify for retirement age reduction purposes. If this is the case, the applicant's request to the Board is likely moot, because no change in the length of the applicant's EAD service would have an impact on his RET-2 versus RET-1 status.

The Board raises these issues because in determining whether the statute of limitations should be waived, the Board must consider the interests of justice. In the absence of any indication that the Coast Guard has transferred the applicant to RET-1 status, a Board decision granting the applicant's requested relief would likely have no actual impact. As such, the interests of justice are not likely to be served by waiving the Board's limitations period.

The application before the Board does not challenge the applicant's RET-2 status, or otherwise call into question the Coast Guard's handling of his retirement. If the applicant wishes, he may submit an additional application supported by evidence.

5. The Board finds that reasons for the applicant's delay in filing his application are not compelling. The Board also finds that upon a cursory review, the application lacks merit, as it is not supported by evidence sufficient to rebut the presumption of regularity in the Coast Guard's actions. Moreover, it is unclear whether the relief requested by the

applicant would result in any benefit to him, even if granted. Based on the foregoing, the Board finds that the interests of justice do not require waiving the three-year statute of limitations in this case. Accordingly, the application will be denied as untimely.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former LCDR/O-4 [REDACTED] is denied.

April 10, 2025

