

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2012-122

**XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX**

FINAL DECISION

This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case upon receiving the completed application on April 13, 2012, and assigned it to staff member J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated January 18, 2013, 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 asked the Board to correct his record to show that he was reenlisted on active duty on August 20, 2011, instead of September 1, 2011. He explained that he was granted a temporary separation from active duty in 2010 and served in the Reserve in xxxxxxxxxx, during the temporary separation. When the temporary separation ended in 2011, he received permanent change of station (PCS) orders to report for active duty in xxxxxxxxxx, on September 1, 2011. The orders required that he be enlisted on active duty in the regular Coast Guard before leaving Baton Rouge. However, he was not enlisted before he left xxxxxxxxx on August 20, 2011, and was not enlisted until after he reported for duty on September 1, 2011. Because of this administrative error, he has not received the full pay and benefits for the period August 20 through August 31, 2011, that he would have if the command at xxxxxxxxxx had timely enlisted him in accordance with the orders.

In support of these allegations, the applicant submitted a copy of his transfer orders, issued on July 28, 2011, which show that he was to transfer from xxxxxxxx and report to xxxxxxxxxx on September 1, 2011, for a four-year tour of active duty. The orders directed him to leave xxxxxxxxxx on August 20, 2011, and authorized and required his enlistment on active duty for a minimum of four years before making the transfer. The applicant also submitted a copy of his enlistment contract, which shows that the command in xxxxxxxxxx enlisted him on September 1, 2011.

VIEWS OF THE COAST GUARD

On September 28, 2012, the Judge Advocate General (JAG) submitted an advisory opinion in which he recommended that the Board grant relief in this case by correcting the applicant's record to show that he reenlisted on active duty on August 20 instead of September 1, 2011, and to award him back pay and allowances.

In making this recommendation, the JAG adopted the findings and analysis in a memorandum provided by the Personnel Service Center (PSC). PSC stated that the applicant had requested to return to active duty on September 1, 2011, and that request was approved. Therefore, technically, his PCS orders should have authorized his travel to begin on September 1, 2011, and show a report date later in September, in which case his reenlistment contract would properly have reflected a September 1, 2011, reenlistment date. However, the unit yeoman erred by issuing PCS orders that directed the applicant to depart xxxxxxxxxx and begin his move on August 20, 2011. Moreover, because the PCS orders required the applicant to already have four years of obligated service upon reporting to his new unit, the yeoman should have required him to reenlist on August 20, 2011. Therefore, PSC recommended that the Board grant relief so that the applicant will receive the correct pay and benefits for the period August 20 to 31, 2011.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 5, 2012, the applicant responded to the views of the Coast Guard and indicated that he agreed with them.

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 submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely filed within three years of the alleged error. 10 U.S.C. § 1552(b).
2. The applicant alleged that he has wrongly been denied the active duty pay and benefits that he would have received if a unit yeoman in xxxxxxxxxx had properly reenlisted him before he executed his transfer to xxxxxxxxxx. His military records and the Coast Guard's advisory opinion strongly support his claim that he executed orders that instructed him to complete his household move from xxxxxxxxxx from August 20 to September 1, 2011, and required that he already have obligated four years of active duty before departing xxxxxxxxxx, but that he was not actually reenlisted on active duty until he completed his move and reported for duty in xxxxxxxxxx on September 1, 2011.
3. Accordingly, the applicant's request should be granted.

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is granted. The Coast Guard shall correct his records to show that he reenlisted for four years on August 20, 2011, instead of September 1, 2011, and shall pay him any amount due as a result of this correction.

