

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2002-096

XXXXXX, XXXXXX X.
XXX XX XXXX, XXX

FINAL DECISION

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 May 7, 2002, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated March 26, 2003 is 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 his pay base date is June 15, 19XX, rather than July 31, 19XX, the date he entered active duty. He alleged that because he signed his oath of office on June 15, 19XX, the July 31, 19XX pay base date is incorrect. He alleged that because of this error, the timing of his pay raises for longevity purposes will be adversely affected. In support of his application, he submitted a copy of his oath of office, which shows June 15, 19XX as the date on which he received a commission in the rank of ensign.

SUMMARY OF THE APPLICANT'S RECORD

On June 15, 19XX, the applicant signed an Acceptance and Oath of Office for an appointment as an ensign in the Coast Guard Reserve through the Direct Commissioned Officer (DCO) program. The form indicates that June 15, 19XX is his date of rank (DOR).

On July 31, 19XX, the applicant entered active duty. By an apparent administrative error, the applicant's pay base date was established as July 31, 19XX. On August 1, 19XX, the applicant agreed to extend his active duty for three years through July 31, 20XX. To date, the applicant continues to serve on active duty in the Coast Guard.

VIEWS OF THE COAST GUARD

On October 8, 2002, the Chief Counsel of the Coast Guard submitted its comments to the Board. In adopting the analysis of Coast Guard Personnel Command (CGPC) as its advisory opinion, the Chief Counsel recommended that the Board grant the applicant's request for relief.

The Chief Counsel stated that the applicant's correct pay base date is June 15, 19XX, the date he was sworn into the Coast Guard and signed his oath of office. He also stated that the applicant's correct active duty base date is July 31, 19XX, the date he signed his active duty agreement.

The Chief Counsel stated that typically, a DCO is issued his or her "oath of office with instructions to execute [it] prior to coming on active duty so that [he or she has] military status and can travel to their first duty stations on orders." He stated that consequently, most DCOs have dates of commission earlier than their active duty base dates. In this case, he stated that similarly, the applicant signed his oath of office on June 15, 19XX and reported to the XXXXXX XXXXXX on July 31, 19XX to begin active duty.

The Chief Counsel stated that officer promotions, and associated pay raises, are based on the commissioning date established in the Register of Officers, while biennial pay raises are based on the officer's pay base date. He stated that based on the pay base date of June 15, 19XX, the applicant's record supports his allegation of error and should be corrected.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 15, 2002, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 15 days. The Board did not receive a response.

APPLICABLE LAW

Reserve Policy Manual (RPM) (COMDTINST M1001.28)

Pursuant to the authority contained in 14 U.S.C. § 736 (c), Article 7.A.2.b. of the RPM provides that a Reserve officer's "[p]ay allowances begin on the date of appointment in the grade to which an officer has been appointed...."

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. The application was timely.

2. The applicant requested that his pay base date be changed to June 15, 19XX, instead of July 31, 19XX. Under Article 7.A.2.b. of the RPM, his pay allowances were to begin on June 15, 19XX, the date of his appointment to ensign. Therefore, the Board finds that the computation of his pay base date should be the date on which he was appointed to the grade of ensign.

3. The applicant has proved by a preponderance of the evidence that his pay base date is erroneous and should be changed. He submitted evidence that he signed his Acceptance of Oath of Office for appointment in the grade of ensign on June 15, 19XX. The Chief Counsel agreed that the Coast Guard committed an error when it established the applicant's pay base date as July 31, 19XX. The Chief Counsel stated that the applicant's pay base date should reflect June 15, 19XX, the date the applicant signed his oath of office, rather than July 31, 19XX.

4. Accordingly, the applicant's request should be granted.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXX XXXXXX X. XXXXXXXX, XXX XX XXXX, USCGR, for the correction of his military record is granted as follows:

His record shall be corrected to show that his pay base date in the grade of ensign is June 15, 19XX.

The Coast Guard shall pay him any sum he may be due as a result of this correction.

