

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-029



FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case after receiving the completed application on November 15, 2017, and prepared the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated August 3, 2018, 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, a [REDACTED] (E-6) who retired from the Coast Guard Reserve on September 1, 2016, with 29 years of satisfactory service, alleged that his pay was shorted by twelve years of service from February 28, 2003, through September 1, 2016. He alleged that this happened because when he enlisted in the Coast Guard Reserve, he was credited with only 3 years, 9 months, and 25 days of prior military service in the Navy Reserve instead of the 15 years, 9 months, and 25 days he should have been credited with. The applicant alleged that he discovered this error upon his retirement in 2016. Therefore, he asked the Board to ensure that his record has been corrected and that he receives due back pay and allowances. In support of his allegations, the applicant submitted the following:

- A database print-out of his retirement points statement shows a pay base date of June 5, 1987, and a total of 29 years of “qualifying service” for retirement purposes, including 16 qualifying years in the Navy Reserve from February 11, 1987, through February 27, 2003, and 13 years in the Coast Guard Reserve from February 28, 2003, through September 27, 2017.
- The applicant’s original Coast Guard Reserve enlistment contract dated February 28, 2003, shows that upon enlistment, he was credited with just 5 months and 18 days of total prior active duty and 3 years, 4 months, and 7 days of total prior inactive duty.

- A Reserve Retirement Transfer Request dated May 11, 2016, states that the applicant had 29 years of qualifying service for retirement but had not yet been issued a 20-year letter informing him that he had qualified for a Reserve retirement.

VIEWS OF THE COAST GUARD

On April 19, 2018, a judge advocate of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief and adopted the findings and analysis in a memorandum on the case prepared by the Personnel Service Center (PSC), which stated that the error in the applicant's record had already been corrected and he had been sent back pay totaling \$5,021.53 on June 15, 2016, before the applicant filed his application. In support of these claims, PSC submitted the following:

- A Navy Statement of Service shows 16 years of satisfactory service toward retirement in which he earned more than 50 points each anniversary year.
- Database print-outs show that as of June 2, 2014, the applicant was being paid as an E-6 with only 14 years of service but that as of January 1, 2015, he was being paid as an E-6 with more than 26 years of service.
- Database print-outs show that as of June 13, 2015, the applicant's pay base date was May 3, 1999, but that by October 30, 2015, his pay base date had been corrected to June 5, 1987.
- A Statement of Creditable Service issued on November 2, 2015, which shows a Date of Initial Entry in Military Service (DIEMS) in the Navy Reserve of February 11, 1987, and a pay base date of June 5, 1987.
- A database print-out of the applicant's earnings and deductions shows that he was issued a check with a gross value of \$5,021.53 and a net value of \$3,754.69.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 30, 2018, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. No response was received.

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.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.¹ The record shows that when he enlisted in the Coast Guard Reserve in 2003, the applicant signed an enlistment contract showing much less total prior service than he had actually served in the Navy Reserve. The applicant also must have known that

¹ 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

his pay was based in part on his longevity—the duration of his military service—but he did nothing to ensure that his longevity pay increases were correct. The Board is persuaded, however, that the applicant would have complained about his pay earlier if he had been aware of the error. Because he was a reservist and not depending on his military pay as his primary income, he may not have checked the pay rates to ensure that he was being paid correctly. The record shows that the applicant's records and pay were corrected in 2015 and so he presumably discovered the error in his record in 2015. Therefore, the preponderance of the evidence shows that his application, which was received in November 2017 is timely.

3. The applicant alleged that his Coast Guard military records reflect an erroneous amount of prior military service in the Navy Reserve and that he is therefore owed back pay. 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 his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.² 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.”³

4. The Coast Guard has submitted evidence showing that the applicant's pay base date was corrected in 2015 and that he received back pay in the gross amount \$5,021.53 on June 15, 2016. The applicant did not respond to the Coast Guard's advisory opinion. Therefore, the Board finds that the preponderance of the evidence shows that the applicant's pay base date was erroneous until 2015 but that the Coast Guard has already corrected his records and paid him the back pay he was due as a result of the correction. Therefore, no further correction is warranted.

5. Accordingly, the applicant's request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

The application of [REDACTED] USCGR (Retired), for correction of his military record is denied.

August 3, 2018

