


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2005-055

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

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 on January 25, upon receipt of the applicant's application and military records.

This final decision, dated October 27, 2005, 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, a former reservist, asked the Board to correct his records so that he can be paid for drills he performed on October 2 and 3, 2004. He alleged that due to an administrative error by the Coast Guard, he was not informed that he had been discharged from the Reserve until November 2004 and performed his scheduled drills in October 2004 in good faith.

SUMMARY OF THE APPLICANT'S MILITARY RECORD

On September 2, 2003, the applicant enlisted in the Reserve for six years. He attended boot camp and was released to inactive duty in the Selected Reserve (pay status). On June 30, 2004, his command sent the Coast Guard Personnel Command (CGPC) a recommendation that he be administratively discharged, as follows:

I believe this is the best course of action for both the member and the Coast Guard based on the following. After multiple counseling sessions with [the applicant], he is not planning to honor his contract with the Coast Guard. He refuses to attend or complete "A" School, which is part of his contract requirements and has failed to comply with

mobilization requirements. Also, [he] experienced severe family and financial hardships while attending Basic Training, which are unlikely to be resolved in the near future. I believe that he did not realize the full scope of his obligations to the Coast Guard and now, with the additional burdens placed on the member, it is best that he be discharged.

On September 28, 2004, CGPC issued orders discharging the applicant as of September 27, 2004, with a general discharge under honorable conditions for "Unsatisfactory Performance-Burden to Command."

On February 22, 2005, the applicant's command informed CGPC that the applicant had performed drills after his discharge date because the command had not received his discharge orders in time and had ordered him to attend drills on October 2 and 3, 2004. The command stated that the applicant had completed multiple drills on both October 2 and 3, 2004—after his discharge date—through no fault of his own. The command stated that the applicant could not be paid for the drills since his discharge date in the database preceded the drill dates.

VIEWS OF THE COAST GUARD

On April 25, 2005, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant the applicant's request. The JAG submitted a memorandum on the case prepared by CGPC.

CGPC explained that when it generated the applicant's discharge orders on September 28, 2004, they were sent by email to the applicant's command. However, "the point of contact was unavailable to relay the separation orders to the appropriate personnel at the unit, leaving the command unaware that Applicant's discharge had been processed." Therefore, the command ordered the applicant to drill on the weekend of October 2 and 3, 2004, and though he did drill, he was not paid for the drills. CGPC concluded that through no fault of his own, the applicant drilled for two days without knowing he had been discharged. CGPC recommended that the Board correct the applicant's date of discharge to October 5, 2004, so that the applicant can be paid.

On April 26, 2005, 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 submissions, 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 has proved by a preponderance of the evidence that the Coast Guard erred in ordering him to perform multiple drills on October 2 and 3, 2004, after he had been discharged. CGPC has admitted that through no fault of his own, the applicant performed multiple drills on both October 2 and 3, 2004, but could not be paid for them because the database shows that he was discharged on September 27, 2004.

3. Accordingly, relief should be granted by correcting the applicant's date of discharge to October 5, 2004, and by ordering the Coast Guard to pay him any amount he may be due as a result of the multiple drills he performed on October 2 and 3, 2004.

ORDER

The application of former SN xxxxxxxxxxxxxxxxxxxxxxxxx, USCGR, for correction of his military record is granted as follows:

His date of discharge from the Reserve shall be October 5, 2004, instead of September 27, 2004. The Coast Guard shall pay him any amount he may be due as a result of this correction and the multiple drills he performed on October 2, 2004, and October 3, 2004.

