

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2009-119

**XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX**

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 application upon receipt of the applicant's completed application and subsequently prepared the final decision as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 12, 2009, 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 credit him with time spent in the Individual Ready Reserve (IRR) between June 26, 2006 and June 3, 2008. The applicant was separated from active duty under the temporary separation policy. Article 12.F.1. of the Personnel Manual states that the Coast Guard's temporary separation policy allows members to temporarily separate and pursue growth or other opportunities outside the service, while providing a mechanism for their return to active duty. The long-term intent of the program is to retain the valuable experience and training that members possess, which might otherwise be lost. Under the policy, career-oriented officers and enlisted members are allowed a one-time separation from active duty for up to two years.

The applicant enlisted in the Coast Guard on June 27, 2000, with an eight-year service obligation. He was required to serve at least four years on active duty, with the remainder to be spent in the Reserve. On active duty, he completed [REDACTED] "A" school and was advanced to [REDACTED] (third class).

On March 2, 2006, he requested to be separated temporarily under Article 12 F. of the Personnel Manual for two years to attend college. On his career intentions work sheet, the applicant requested to be released from active duty instead of being discharged. His DD Form 214 shows that he was released from active duty on June 26, 2006, and that he had a Reserve obligation until February 22, 2008. However, the Coast Guard's database Direct Access shows that the applicant was discharged from the Coast Guard.

The applicant returned to active duty within the two year period authorized under the temporary separation program. He stated that the Personnel Service Command (PSC) told him that since Direct Access shows that he was discharged in 2006 that his time in the IRR did not count. The applicant asserted that Direct Access is in error or unjust because he was not counseled at the time of separation that he was being discharged; that he did not request discharge on his career intentions worksheet that was prepared prior to his separation; and that his DD 214 showed release from active duty with a remaining reserve obligation. The applicant stated that based upon the above, he believed that he had been released from active duty and transferred to the IRR.

VIEWS OF THE COAST GUARD

In August 2009, the Board received the views of the Coast Guard from the Judge Advocate General (JAG). He adopted the facts and analysis provided by Commander, Personnel Service Center (PSC) and asked the Board to accept PSC's comments as the advisory opinion in this case.

PSC recommended that the applicant's record be corrected to show that he was transferred to the IRR on June 26, 2006, instead of being discharged. PSC further stated the following:

The applicant's record with regard to his DD 214 is incorrect. The Coast Guard authority erred in issuance of the DD 214, which may have led the applicant to believe that he was affiliating with the Reserve vice being discharged from the Service. Given this error, with the applicant's record, it is more likely than not, that the office preparing the DD-214 did not properly counsel the applicant regarding Reserve affiliation based upon the belief that he was being RELAD. The applicant's electronic record in direct access reflects that he was discharged; however this information would not have been readily available to the applicant.

In the interest of justice, the Coast Guard recommends that the applicant's record be corrected to show that he was transferred to the IRR on June 26, 2006 in lieu of being discharged.

APPLICANT'S REPLY TO THE VIEWS OF THE COAST GUARD

On August 18, 2009, the Board received the applicant's reply to the view of the Coast Guard. He had no objection to the views of the Coast Guard.

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 section 1552 of title 10 of the United States Code. The application was timely.

2. The Coast Guard finds, and the Board agrees, that the applicant has suffered an injustice. He legitimately believed that his separation from active duty under the temporary separation program was a release from active duty and not a discharge from the Service. The counseling he received from the Coast Guard, his request for a release from active duty, on his career intentions worksheet, and the DD 214 showing his release from active duty support the applicant's belief that at the time of his separation he was released from active duty and transferred into the IRR and not discharged. As the advisory opinion stated, the information in Direct Access (Coast Guard's computerized personnel database) was not available to the applicant.

3. Accordingly, the applicant has established an injustice in his record that requires corrective action. His request should be granted.

ORDER

The application of XXXXXXXXXXXXXXX, 1140134, USCG, for correction of his military record is granted. His record (including Direct Access) shall be corrected to show that he was transferred to the IRR on June 26, 2006, instead of being discharged.

