

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2016-075



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 on March 9, 2016, upon receipt of the applicant's completed application and military records, and prepared the draft decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated January 13, 2017, 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, an [REDACTED] currently in the Individual Ready Reserve (IRR), asked the Board to correct her record to show that she was reenlisted for six years, instead of being released from active duty into the reserve, when her enlistment ended on [REDACTED]. The applicant alleged that she should be reinstated on active duty and be awarded back pay and allowances and the \$36,000 reenlistment bonus that was available for members in the [REDACTED] rating on [REDACTED].

The applicant explained that on [REDACTED] she completed a Career Intentions Worksheet (CIW) stating that she wanted to leave active duty and enter the IRR when her enlistment expired on [REDACTED]. She began terminal leave on [REDACTED] and on [REDACTED] she signed her DD 214 discharge certificate dated on [REDACTED]. However, before her enlistment expired, she changed her mind and decided to reenlist instead. Therefore, she contacted a yeoman at her unit, a Sector in [REDACTED] by phone and email before her discharge date and asked to reenlist. She alleged that the yeoman erroneously told her that she had to reenlist through a recruiter, instead of reenlisting at her command, even though she was still assigned to the unit, because the documentation of her discharge had already been sent to the Personnel and Pay Center (PPC). When she contacted a recruiter, she was told that because she was still on active duty, she could only reenlist at her command. She informed the yeoman of what the recruiter had said, and the yeoman advised her that her billet had already been filled and so she would be transferred to a new unit if she reenlisted. She asked if she could be transferred

to a unit near the homeport of her [REDACTED] and the hospital where she had been receiving medical care due to her pregnancy, which was about 200 miles away from her current unit, but the yeoman told her that he could not guarantee that she would get transferred to that location. She asked about her options and was again advised to speak to a recruiter. Therefore, she waited until [REDACTED] to contact a recruiter. After speaking to the recruiter, however, she learned that because she had not reenlisted while still on active duty, she could not reenlist while she was pregnant. The recruiter told her that she would not be eligible to reenlist until six months after she gave birth.

The applicant alleged that she was not treated fairly and was not given the opportunity to reenlist when she was entitled to. She alleged that because of her command's error in not reenlisting her, she missed the opportunity to reenlist for six years and receive a large reenlistment bonus authorized for her rating under ALCOAST 346/15. Therefore, she argued, she should be credited with constructive service and receive back pay and allowances and the bonus she would have received if she had been reenlisted for six years before her enlistment ended.

In support of her request, the applicant submitted a copy of ALCOAST 346/15, which authorizes a \$36,000 Zone A SRB for members in the [REDACTED] rating, and the following email chain:

- On [REDACTED], at 1:52 p.m., the applicant emailed a yeoman (YN3) asking to speak to her that afternoon or the following morning. She did not mention why she wanted to speak to the yeoman.
- At 1:54 p.m., the yeoman replied that "tomorrow would be better" because she would be "back in forth in the ID office" that afternoon, and she provided her telephone number.
- At 1:59 p.m., the applicant agreed and noted that she had spoken to a recruiter since her enlistment was ending on Saturday. She noted that "her other half which is also coast guard is seeing if I could stay in but be stationed in [desired location] since he's stationed here! We are getting married in [REDACTED] Lol but if I would have to stay in [current unit's location] then I won't stay in. Lol sorry ... would I have to talk to the detailer about that?!"
- At 2:01 p.m., the yeoman replied, "To be a reservist or active duty?"
- At 2:12 p.m., the applicant replied, "Sorry I just want to get this last minute questions answered before my dd-214 is final... and another question is would I be able to do active reserve or no! I read something that [REDACTED] doesn't have reserve billets now...is that true."
- At 3:28 p.m., the yeoman replied, "Alright, I ran this by senior chief he has your record and is going to see what we can do. Youll more than likely have to contact ppc and the detailer^[1] but hold off on that until I hear back from senior."
- On [REDACTED], at 10:50 a.m., the applicant replied, "Hey I know you guys said you emailed the detailer...did you guys tell them I'm getting married to another

¹ A detailer, or Assignment Officer, is the member at Coast Guard Headquarters who is responsible for assigning personnel in a particular rating to the vacant billets designated for personnel in that rating.

█████ that is in the [cutter] in [desired location]. We are getting married once he gets back from patrol in mid November.”

- At 10:55 a.m., the yeoman replied, “I forwarded your email to CWO [a chief warrant officer] that said you were getting married. It didn’t have the specifics other that you were marrying a coastie that is in the [desired location] area.”
- At 11:47 a.m., the applicant replied, “And would you just email me and let me know what’s going on because I would basically have to enlist either today or tomorrow since there’s no one really at base on Saturdays! That is if I’m able to get a billet at [desired location]! Sorry for the sudden rush on things.”
- At 12:52 p.m., the yeoman forwarded to the applicant an email from the CWO, who wrote, “I reached out to the █████ detailer. From what he told me, at this point it is most likely too late to stop the separation process so the member should get with a recruiter. Please let her know.”
- At 1:47 p.m., the applicant wrote, “Do you think I’ll be able to talk to her today before she leaves?!? So we can try to figure something out!”
- At 2:22 p.m., the yeoman replied that the CWO was in a meeting but a YN1 was present. The yeoman wrote, “What questions do you want to ask her? If you can reenlist? Or you only wish to reenlist if you get [desired location]?”
- At 2:29 p.m., the applicant replied, “Well I mean I would like to reenlist if I could get [desired location]! And the fact that they said it’s too late to reenlist makes no sense to me! I mean if they gave a billet list of what’s available and my other half wants to know. But [desired location] would be the best because of where I’m getting my care from right now! I just want to have options other then them saying its too late to reenlist! When really it’s not...or if I would be able to talk to [the CWO].”
- At 2:42 p.m., the yeoman replied that she had shown the CWO the applicant’s email and the CWO said that the █████ detailer had “told her ‘NO’ and to have you go to the recruiter. [The desired location] is not a guarantee, you aren’t married member to member.”
- At 2:46 p.m., the applicant replied, “Ok. I understand I’m not married yet but it’s kinda hard right now because he’s on deployment and has been for 5 weeks. But we do have an appointment the day after he gets back to get married! So I’m guessing the detailer is aware that I’m pregnant and is also aware that they won’t let me back active because of my pregnancy! Am I able to find out what billets are available...”
- At 2:58 p.m., the yeoman replied, “I don’t know, that’s way above me to find out how and what is available. All I am being told is for you to contact the recruiter.”
- On █████, at 12:52 p.m., the applicant asked the yeoman whether she needed to re-sign her DD 214 because she had signed in black ink, instead of blue.
- At 1:21 p.m., the yeoman told her that she did not need to re-sign it.
- At 1:47 p.m., the applicant replied, “Oooooo sweet!! Sorry about that, I was hoping it wasn’t a big deal! Thanks I’ll email you once I get them!”

The applicant's DD 214 shows that she was released from active duty into the Reserve on Saturday, [REDACTED] after completing her four-year active duty obligation. She received an honorable character of service and an RE-1 reenlistment code (eligible).

VIEWS OF THE COAST GUARD [REDACTED]

On August 4, 2016, the Judge Advocate General of the Coast Guard submitted an advisory opinion recommending that the Board deny relief [REDACTED] and analysis in a memorandum [REDACTED] case by Commander, Personnel S [REDACTED].

[REDACTED] PSC stated that because the applicant indicated on her CIW that she wished to enter the IRR, her commanding officer (CO) did not complete the part of the form indicating whether she was eligible to reenlist. Therefore, PSC alleged, it is not clear whether she was eligible to reenlist. Furthermore, PSC stated, the applicant "expressed that she only wanted to reenlist if she could be guaranteed a certain billet, which her assignment officer indicated he could not do. Therefore, it was reasonable for the SPO to await definitive confirmation from the applicant before initiating the reenlistment process and cancelling her discharge. Additionally, the applicant's request to reenlist was extremely untimely, a notice of less than three business days, [REDACTED] atively burdensome on the Coast Guard due to the fact that she was away on terminal leave. The applicant's contention that she was prevented from reenlisting is incorrect based on the evidence provided."

PSC noted that the [REDACTED] rating is on the Open Rate List and so the applicant could reenlist at any time but has not. Regarding the reenlistment bonus for the [REDACTED] rating, PSC stated that the CIW shows that the applicant checked boxes on the CIW indicating that she wanted to be released from active duty [REDACTED] she had not received information about the available bonuses. PSC argued that the CIW shows that it was the applicant's "responsibility to contact their admin/SPO to obtain counseling [about bonuses] if they did not receive it." PSC stated that the applicant's separation from active duty [REDACTED] was not erroneous or unjust.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 14, 2016, the Board received the applicant's response to the [REDACTED]. [REDACTED] applicant acknowledged that she had waited until a few days before [REDACTED] discharge to change her mind but noted that there is nothing in the manuals that prohibits a member from reenlisting on the last day. The applicant acknowledged asking for a billet in a particular location and being told that it was [REDACTED] not guaranteed. However, she stated, she asked for her options [REDACTED] noted that it was not too late to reenlist. The applicant alleged that she was entitled to be informed of her options. However, instead of being advised of her options, she was told that the detailer had said "no" and that she had to go to a recruiter, which was incorrect because [REDACTED] was on active duty. She alleged that she did ask to reenlist and was improperly denied the opportunity.

[REDACTED] Regarding her CIW, the applicant stated that she signed it on [REDACTED], to show that she wanted to be discharged from active duty and enter the IRR. However, when she changed

her mind, her unit incorrectly told her that she would have to reenlist through a recruiter, while the recruiter [REDACTED] could not reenlist her while she was still on active duty. She stated that she “felt like [she] was being denied reenlistment when [she] was eligible to reenlist.” She noted that her command assigned her an RE-1 reentry code, which shows that she was eligible to reenlist, and she had been recommended for advancement on her most recent performance evaluation.

The applicant stated that she was unable to rejoin [REDACTED] within 24 hours of her separation. [REDACTED] g office was not open on Sunday, [REDACTED] and because she was pregnant. She stated that when she went to the recruiting office on [REDACTED] the senior chief was shocked that her command had not reenlisted her and told her that because she had already been separated from active duty and was pregnant, she would have to wait for six months after giving birth to reenlist.

Regarding the bonus, the applicant stated that her complaint is “not that [she] didn’t receive any information regarding it,” but that she did not receive the bonus only because she was improperly denied reenlistment for no reason. She alleged that if she had been allowed to reenlist, she would have reenlisted for six years to receive the maximum authorized bonus. She [REDACTED] is no longer eligible for a reenlistment bonus because she has been separated from active duty for more than three months.

APPLICABLE REGULATIONS

Under Article 1.A.10.b. and 1.A.3.b. of COMDTINST M1100.2, members are supposed to be reenlisted at their current commands unless they have been discharged for more than 24 hours, in which case the [REDACTED]

In Appendix 3 of the Recruiting Manual, COMDTINST M1100.2E, pregnancy is listed as one of the “obvious disqualifying medical conditions” for enlistment on active duty at a recruiting office.

Article 1.A.5.a. of the Assignments Manual, COMDTINST M1000.8A, “all Coast Guard members [must] be available for unrestricted duty assignment worldwide.” However, pursuant to Article 1.A.6.b., pregnant members may only be assigned to locations within [REDACTED] late housing and medical facilities.” In addition, Article 1.A.7.a. of the Assignments Manual, states that married active duty members are collocated “whenever possible,” but that it may not be possible and that “assignments ultimately must be based on service needs.”

Article 1.B.1.g. provides that an Assignment Officer should consider the following factors when making assignments for enlisted personnel:

- (1) Service need,
- (2) Assignment priority (See Article 1.B.4. of this Manual.) [Article 1.B.4. gives assignment priority/preference to members who have just completed certain assignments in the following order: (1) restricted duty overseas, (2) other duty afloat overseas, (3) duty afloat stateside and in certain

particularly difficult or high-tempo billets, (4) duty in other difficult billets, and finally (5) duty at stateside ashore units.]

- (3) Commanding officer's recommendation,
- (4) Performance history,
- (5) Member's desires,
- (6) Time at present unit,
- (7) Time in present geographic area,
- (8) Previous assignment history (isolated, ashore, afloat, OCONUS and CONUS),
- (9) Advancement or promotion status and leadership potential,
- (10) Service remaining in original enlistment. . . .,
- (11) Qualification codes,
- (12) Service remaining before approved retirement date,
- (13) Willingness to obligate service for transfer, and
- (14) Physical condition.

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 filed within three years of the applicant's separation from active duty.²

2. The applicant alleged that her discharge on [REDACTED] was erroneous and unjust because she wanted to reenlist but was improperly denied the opportunity. 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.³ 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."⁴

3. The Board finds that although the preponderance of the evidence shows that she was eligible to reenlist in [REDACTED] the applicant has not proven by a preponderance of the evidence that her release from active duty on [REDACTED] constitutes either error or injustice. The applicant told the Coast Guard in [REDACTED] that she was separating from active duty on [REDACTED] when her enlistment expired. She started terminal leave on [REDACTED] and signed and submitted her DD 214 on [REDACTED]. Then on the afternoon of [REDACTED] just three days before her discharge, she advised a yeoman that she would reenlist if she could be assigned to a unit in a particular area where her fiancé lived. She

² 10 U.S.C. § 1552(b).

³ 33 C.F.R. § 52.24(b).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

indicated that she would not reenlist if she had to stay in her current location, which was a little more than [REDACTED] her desired location. On Thursday, the applicant was asked to clarify whether she just wanted to reenlist, or whether she would only reenlist if she would be assigned to her desired location. The applicant clearly replied that she would reenlist if assigned to her desired location. She also asked about “options” and was told that the [REDACTED] detailer had said “No,” indicating either that there was no billet for her in the desired location or that there was insufficient time remaining for the detailer to determine what her assignment options would be if she reenlisted by Saturday. According to the applicant [REDACTED] other options. Instead, on [REDACTED] the applicant asked the yeoman if [REDACTED] her discharge form, DD 214, in blue ink instead of black ink. The yeoman told her [REDACTED] y, and the applicant replied, “Oooooo sweet!! Sorry about that, I was hoping it wasn’t a big deal! Thanks I’ll email you once I get them!”

4. Under Article 1.A.5.a. of the Assignments Manual, COMDTINST M1000.8A, “all Coast Guard members [must] be available for unrestricted duty assignment worldwide,” and under Article 1.A.6.b., pregnant members may be assigned to any location within the continental United States with adequate housing and medical facilities. Although married members are collocated “whenever possible,” pursuant to Article 1.A.7.a., the applicant was not married in [REDACTED]. Therefore, to reenlist, the applicant had to be willing to accept assignment to any location in the continental United States with adequate housing and medical facilities. Her emails to the yeoman clearly prove that she was not. The preponderance of the evidence shows that the applicant’s willingness to reenlist was conditional upon being assigned to or very near her desired location and that the [REDACTED] detailer could not immediately offer her such a billet. The applicant told the yeoman that even an assignment at her current [REDACTED] unit, a little more than 200 miles away from her desired location, would not induce her to reenlist. The applicant asked about her options on [REDACTED] but even when the yeoman expressly asked whether she would reenlist without an assignment to the desired location, she did not agree. Instead, she repeated her statement that she would reenlist if she was assigned to a billet in her desired location. The record further shows that on [REDACTED] applicant did not repeat her request for options or request reenlistment regardless of her assignment in her emails to the yeoman. Instead, she discussed her DD 214 as if she was no longer interested in reenlisting.

5. The applicant complained that when she asked about options on [REDACTED] [REDACTED] the Coast Guard did not quickly provide her with a list of vacant [REDACTED] billets that she could choose from. Assuming, as she alleged, that she was not provided with a list of vacant billets to choose from, the Board is not persuaded that the applicant was entitled to have the yeomen at her unit and the [REDACTED] detailer quickly determine and advise her about which vacant [REDACTED] billets she could pick from, given the numerous considerations necessary in Article 1.B.1.g. of COMDTINST M1000.8A, the Assignments Manual. Pursuant to that article, the detailer was required to take many factors into account when offering billets *and* to give other [REDACTED] assigned overseas or to sea duty priority in billet selection. Therefore, the applicant has not proven by a preponderance of the evidence that the Coast Guard committed any error or injustice in failing to inform her of where she might be assigned if she reenlisted by [REDACTED] [REDACTED]

6. The applicant complained that the yeoman kept telling her to go to a recruiter at a time even [REDACTED] not reenlist at a recruiting office because she was still on active duty, and a recruiter told her so. The record shows that the yeoman advised her to consult a recruiter after the applicant indicated that she would only reenlist if she would get an assignment at her desired location and after the detailer said “No”—i.e., that the detailer could not promise her a billet in that location. It is not clear from the record whether the detailer and the chief, who were apparently offering this advice through the yeoman, knew that the applicant was pregnant. However, the applicant’s own emails at 11:47 and 2:46 on [REDACTED], show that she knew she had [REDACTED] within two days and that she would not [REDACTED] nlist at a recruiting office because she was pregnant. Therefore, the Board is not persuaded [REDACTED] [REDACTED] t was actually misled to believe that she could reenlist at a recruiting office immediately after her release from active duty.

7. The Board finds that the applicant has not proven by a preponderance of the evidence that the Coast Guard committed an error or injustice by not reenlisting her after she initially requested separation and then at the last minute repeatedly stated that she would reenlist *if* she could get an assignment to a particular location. While it was not too late for her to reenlist, the preponderance of the evidence shows that it was too late for her to reasonably expect [REDACTED] present her with a list of options for billets or a billet in her desired location to entice her to reenlist, which is what she repeatedly requested. Because the Coast Guard did not commit an error or injustice by not reenlisting her, there are no grounds for reinstating her on active duty, awarding her back pay and allowances, or awarding her a reenlistment bonus. The applicant’s request should [REDACTED] leni[REDACTED]

(([REDACTED] PAGE))

ORDER

The application of [REDACTED], USCGR, for correction of her military record is denied.

January 13, 2017

