

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-060



FINAL DECISION

This is a proceeding under the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the applicant's completed application on December 22, 2016, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 8, 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, a [REDACTED] first class ([REDACTED]E-6) in the Reserve, asked the Board to correct his record by redistributing or adding to his retirement points to make his anniversary year (AY) 2011 a qualifying year of service for retirement purposes.¹

The applicant alleged that the Coast Guard repeatedly misinformed him about his official Reserve anniversary date and that it is "still not solidly known." He stated that he was recently told that his anniversary date is October 1, 2010—the day he enlisted in the Reserve under the Delayed Entry Program—and so his anniversary years end each September 30. However, he alleged, he received incorrect advice about his anniversary date when he transferred from active duty to the Reserve in August 2010. He was told by Coast Guard administrative personnel in August 2010 that his anniversary date was February 22, because he first enlisted on active duty on February 22, 2005, and that because he had performed active duty until August 17, 2010, he had already earned enough points in his anniversary year ending on February 21, 2011, to have a qualifying year for retirement purposes,² and so he did not need to drill for points until his next anniversary year beginning on February 22, 2011. In addition, he was later told that his anniversary date was August 17, 2010, because he entered the Reserve following his discharge from active duty on that date.

¹ A reservist must earn at least fifty points per anniversary year to have a qualifying year for Reserve retirement purposes. 10 U.S.C. § 12732.

² Reservists earn one point for each day of active duty and one point for each four-hour period of inactive duty training (a drill). They may perform no more than two drills per day. Reserve Policy Manual, Chap. 8.C.3.b.

The applicant alleged that because of this misinformation, he lacked four points to earn a qualifying year of service for retirement when his AY 2011 ended on September 30, 2011. The applicant stated that his AY 2011 would have qualified for retirement purposes had either August 17 or February 22 been his anniversary date, but it does not with an October 1 anniversary date. The applicant stated that he learned about this problem in 2012 and complained to the Reserve Personnel Management branch of the Coast Guard Personnel Service Center (PSC). PSC has since acknowledged this mistake and has made his AY 2011 “satisfactory” for other purposes, such as the payment of his Reserve bonus, but PSC cannot make his AY 2011 qualify for retirement purposes. Therefore, he is asking the Board to do so.

In support of his request, the applicant submitted copies of emails showing the following:

- On December 23, 2011, an auditor at the Coast Guard Personnel and Pay Center (PPC), a part of PSC, sent a yeoman at the applicant’s unit’s Servicing Personnel Office a copy of Chapter 8.C.3. of the Reserve Policy Manual (RPM) then in effect, COMDTINST M1001.28A, which defines an anniversary year as beginning on the day a member enters active duty or active status in the Reserve and changing only if there is a break in such service last more than one day. (This chapter is quoted below.) Chapter 8.C.3. also states that a qualifying year of service for a non-regular (i.e., Reserve) retirement is a full year in which the member receives at least fifty retirement points and that a reservist needs twenty such years to qualify for retired pay.
- On January 6, 2012, the yeoman sent personnel at the District Reserve Force Readiness branch (known as DXR) an email stating that the applicant was not receiving his bonus payment because he was not being credited with satisfactory participation.³ The yeoman stated that when the applicant was released into the Reserve in August 2010, there was no available billet for him in the Selected Reserve (SELRES), so he was placed in the Individual Ready Reserve (IRR)⁴ until October 14, 2010, when he was assigned to a billet. The yeoman stated that he told the applicant at the time that his anniversary date would not change since he had had no break in service and “would remain the same as when he came in to the service: February.” The yeoman stated, “Neither of us knew at that time that his new anniversary year began at the start of his reserve time in August.” The yeoman further stated that he told the applicant in August 2010 that he had earned more than fifty points while on active duty from February to August 2010 to make his AY 2011 ending in February 2011 qualify as a satisfactory year for retirement purposes. He stated that based on this erroneous information, the applicant did not begin drilling regularly for points until after February 2011, when he thought his new anniversary year began. The yeoman stated that because the applicant did not begin drilling until February 2011, he was not credited with a satisfactory year of service when his AY 2011 ended in August

³ Bonuses were offered to encourage members to leave active duty and enter the active Reserve. To qualify for the bonus, the member had to meet the requirements for “satisfactory participation” in the Reserve, which at the applicant’s unit was defined as earning at least seventy points per year.

⁴ Members of both the SELRES and the IRR are considered to be in an active status in the “Ready Reserve.” Reserve Policy Manual (RPM), COMDTINST M1001.28A, Chapter 1.C.2. Members of the IRR may drill and complete correspondence courses to earn points but are not assigned to billets and are not paid for drilling. Members of the SELRES are assigned to billets and drill on a regular schedule for both points and pay.

2011 and so was not receiving his Reserve bonus. The yeoman also noted, however, that after being assigned to a billet in October 2010, “from Oct 2010 to Oct 2011 he has actively drilled and technically made a good year within that timeframe. This member is not failing to participate.” The yeoman stated that he had apologized profusely to the applicant for providing him with bad information and that an official at PPC had agreed to authorize the bonus payment “if the DXR is satisfied with the member’s participation thus far.” Therefore, the yeoman asked the DXR to confirm that the applicant was participating satisfactorily and authorize the bonus payment so that the applicant would not lose his bonus due to the yeoman’s bad advice.

- Also on January 6, 2012, a commander at the DXR responded to the yeoman’s email, agreeing that the applicant had “been faithfully fulfilling his obligation since assignment” and recommending that the bonus be authorized. He noted that the “[d]esignation of the start date for a reserve anniversary year can sometimes be difficult and, as seen in this case, can create significant difficulties for an individual.”
- A yeoman at the DXR replied to the yeoman’s email after receiving the commander’s response, he stated that “District One has come up with the following solution: D1 has looked at this member’s drill history and as long as this member completes the proposed multiple IDT drills on 14-15 Jan and 11-12 Feb, this member then can request his subsequent ... bonus and we will favorably endorse and send to PPC.”
- On April 18, 2012, a yeoman at the applicant’s unit forwarded to the yeoman at DXR a secondary request for the applicant’s bonus. The yeoman at DXR replied the same day, stating that the request was denied “based on this member not having a good year for his AY ending in August 2011. This member currently has 53 points for the current AY and as long as he stays on track thru AUG for his AY, he can resubmit this request then and DXR will endorse and forward.” The yeoman noted that if the applicant had prior service before August 2010, when he entered the Reserve, a statement of creditable service should be prepared because his points statement showed points earned only as of August 17, 2010. The unit yeoman responded, asking the DXR yeoman to read the email chain and in particular his email of January 6, 2012.
- On June 7, 2012, a chief warrant officer (CWO) at the DXR replied, stating that the DXR favorably endorsed the applicant’s request for his bonus. He noted that the applicant had not been assigned a SELRES billet until October 2010. The CWO stated that the applicant’s anniversary date is February 22 because that is the date he enlisted on active duty and he had had no break in service. He noted that the August 17 date in the yeoman’s email is not the applicant’s anniversary even though it is the date the applicant entered the Reserve upon his release from active duty. The CWO claimed that the applicant earned 74 points between February 22, 2011, and February 21, 2012—including 47 drills points, 15 membership points, and 12 days of annual active duty training—and so his AY 2012 reflected satisfactory participation for the purpose of the bonus.
- On June 24, 2012, the applicant forwarded this email chain to a chief yeoman with a request to discuss the issue. The chief yeoman replied, stating that she had reviewed the applicant’s data for his AY 2012 ending on February 21, 2012. She stated that he had earned just 67 points in AY 2012, including 40 drill points, 15 membership points, and 12 annual training points.

SUMMARY OF THE RECORD

On October 1, 2004, the applicant enlisted in the Coast Guard Reserve for eight years under the Delayed Entry Program. He was discharged upon enlisting on active duty in the regular Coast Guard on February 22, 2005. The applicant was released from active duty on August 16, 2010, pursuant to a voluntary separation program, which required him to participate satisfactorily in the Reserve to receive a bonus. The applicant was initially entered in the IRR, which allowed him to drill for points but not pay, but he was assigned to a paid SELRES billet in October 2010.

The applicant's Leave and Earnings Statements (LESEs) show that after separating from active duty on August 16, 2010, he performed zero paid and unpaid drills until November 2010, when he performed one paid drill. (The points totals presented here are summarized in Tables A, B, and C, below.) In December 2010, he performed four paid drills, and the LES notes that he had performed five inactive duty (IDT) drills so far in his anniversary year and received six membership points. The applicant's LESEs show that he did not drill in January or February 2011, but he performed four drills each in March, April,⁵ May, and June 2011. The totals of IDT drills performed in the "current anniversary year" reported on these LESEs include the five drills he performed in November and December 2010, instead of just the drills he had performed since February 22, 2011. The applicant did not drill in July or August 2011. His LES dated July 31, 2011, shows a total of twenty-one IDT drills performed in the "current anniversary year," but his LES dated August 31, 2011, shows that his total of IDT drills performed in the "current anniversary year" had been reset to zero, which indicates that the database was using August 17 as the applicant's anniversary date.

The applicant's September 2011 LES shows that he completed eight drills for eight points and a Ready Management Period (RMP) for one point, for a total of nine points. He was also retroactively credited with having performed an RMP earning one more drill point (for a total of five) in April 2011. His LESEs further show that he received four points for four drills in October 2011; five points for four drills and an RMP in November 2011; four points for four drills and twelve points for twelve days of annual active duty training (ADT) in December 2011; and no duty in January 2012.

On his February 2012 LES, the applicant is credited with four drills for four points on February 11 and 12, 2012, but he is credited with six more points for drills performed on February 13, 14, and 25, 2012, on his March 2012 LES.

The applicant's LESEs from April through August 2012 show that he performed two drills in March; two drills and an RMP in April; seven drills in May; seven drills in June; six drills and an RMP in July; and no drills in August. In addition, he earned thirteen points by completing correspondence courses in July 2012, making a total of twenty points for that month, and he was paid the first half of his bonus in June 2012. His August LES shows that his IDT point total was reset to zero for the "current anniversary year."

⁵ On his September 2011 LES, the applicant was retroactively credited with a Ready Management Period in April 2011, raising his total points for that month to five as shown in the tables below.

The applicant's subsequent LESEs show that he began serving on active duty as a reservist on September 4, 2012, and has remained on active duty to the present.

According to the applicant's LESEs, his points are credited as shown in Tables A, B, and C, below, by applying an anniversary date of, respectively, February 22, as he was initially told; August 17, as was entered in the database; or October 1, based on his enlistment in the Reserve under the DEP on October 1, 2004:

TABLE A: Anniversary Date February 22

Anniversary Year	INACTIVE DUTY DRILL POINTS BY MONTH														Total IDT Pts.	Mbr-ship Pts.	AD & ADT Pts.	Total Points for AY
	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb					
2/22/10-2/21/11	(on active duty through 8/16/10)														5	8 ^a	176	182
2/22/11-2/21/12	0	4	5	4	4	0	0	9	4	5	4	0	8	47	15	12	74	
2/22/12-2/21/13	2	2	3	7	7	20	0	(on active duty as of 9/4/12)						41	15	171	227	

TABLE B: Anniversary Date August 17

Anniversary Year	INACTIVE DUTY DRILL POINTS BY MONTH													Total IDT Pts.	Mbr-ship Pts.	AD & ADT Pts.	Total Points for AY
	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug				
8/17/10-8/16/11	0	0	0	1	4	0	0	4	5	4	4	0	0	23	15	0	37
8/17/11-8/16/12	0	9	4	5	4	0	10	2	3	7	7	20	0	71	15	12	98
8/17/12-8/16/13	(continuous active duty as of 9/4/12)													0	15	347	362

TABLE C: Anniversary Date October 1

Anniversary Year	INACTIVE DUTY DRILL POINTS BY MONTH													Total IDT Pts.	Mbr-ship Pts.	AD & ADT Pts.	Total Points for AY
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep					
10/1/09-9/30/10	(on active duty through 8/16/10)													0	2 ^a	320	322
10/1/10-9/30/11	0	1	4	0	0	4	5	4	4	0	0	9	31	15	0	46	
10/1/11-9/30/12	4	5	4	0	10	2	3	7	7	20	0	0 ^b	62	15	39 ^c	116	
10/1/12-9/30/13	(continuous active duty as of 9/4/12)													0		365	365

^aThe 15 membership annual membership points are prorated for partial years in the Reserve.

^bThe applicant began serving on continuous active duty on September 4, 2012.

^cThis includes 12 days of annual training in December 2011 plus 27 days of active duty in September 2012.

VIEWS OF THE COAST GUARD

On June 22, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant relief in this case.

The JAG stated that relief should be granted because the evidence shows that the applicant was repeatedly miscounseled about his anniversary date by administrative personnel. The JAG stated that October 1 is the applicant's proper anniversary date because he first entered the Reserve in the DEP on October 1, 2004, and he has had no break in his military service since then. The JAG noted that Article 8.I.1.a. of the current Reserve Policy Manual states, "On, or

after, May 13, 2003, the anniversary date for a reservist shall be their DIEMS [Date Initially Entered into Military Service], or for a break in service, the first day of the current continuous service period.” The JAG found that because the applicant had no break in service, his Reserve anniversary date is his DIEMS, which was October 1, 2004.

The JAG stated that because the applicant was told his anniversary date was February 22, he did not begin drilling regularly in 2010, since he had earned enough points on active duty in 2010 to have a qualifying year for retirement by February 21, 2011. Because he did not begin regularly drilling until March 2011, the JAG stated, the applicant earned only 46 points during his actual anniversary year from October 1, 2010, to September 30, 2011. The JAG attributed the applicant’s lack of a qualifying AY 2011 to the improper counseling and stated that the applicant was not at fault under these circumstances. The JAG also noted that personnel from both the applicant’s Servicing Personnel Office and the DXR had reported that the applicant was participating and faithfully fulfilling his obligations. The JAG concluded that the applicant has proven by a preponderance of the evidence that had he not been miscounseled, he would have earned a qualifying year of service for retirement purposes for AY 2011.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 24, 2017, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within thirty days. On August 28, 2017, after inquiring about the status of his case, the applicant sent the BCMR staff an email stating that he agrees with the Coast Guard’s advisory opinion.

APPLICABLE LAW AND REGULATIONS

Title 10 U.S.C. § 513, as in effect since May 2003, is titled “Enlistment: Delayed Entry Program,” and states the following regarding enlisting members in the DEP:

- (a) A person with no prior military service who is qualified under section 505 of this title and applicable regulations for enlistment in a regular component of an armed force may ... be enlisted as a Reserve for service in the ... Coast Guard Reserve for a term of not less than six years nor more than eight years.
- (b)(1) ... [A] person enlisted under subsection (a) shall, within 365 days after such enlistment, be discharged from the reserve component in which enlisted and immediately be enlisted in the regular component of an armed force. ...
- (2) During the period beginning on the date on which the person enlists under subsection (a) and ending on the date on which the person is enlisted in a regular component under paragraph (1), the person shall be in the Ready Reserve of the armed force concerned.
- . . .
- (d) This section shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

Title 10 U.S.C. § 101(d)(4) states, “The term ‘active status’ means the status of a member of a reserve component who is not ... on an inactive status list, or in the Retired Reserve.”

Chapter 2.E.8.a. of the Recruiting Manual in effect in 2004, COMDTINST M1100.2E, states, “Recruits in the DEP status incur a military service obligation (MSO). Time spent in the DEP counts toward the MSO. Applicants who enlist in the DEP are enlisted in the Coast Guard Reserve, Ready Reserve under 10 U.S.C. § 511(a) for the express purpose of agreeing to a subsequent enlistment in the Coast Guard.” The current version of this manual references 10 U.S.C. § 513, instead of § 511(a).

Under Chapter 1.C.2. of the Reserve Policy Manual in effect in 2004, COMDTINST M1000.28A, the Ready Reserve consists of the SELRES and the IRR and “[a]ll Ready Reservists are considered to be in an active status.” This policy has not changed.

Chapter 8 of the Reserve Policy Manual in effect in 2010 and 2011, provides the rules for Reserve retirements. Chapter 8.C.3., titled “Qualifying Years of Service,” provides the following rules, which have not substantively changed in the interim:

a. A qualifying year of satisfactory service for non-regular retired pay is a full year during which a regular or reserve member is credited with a minimum of 50 retirement points. An accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

(1) The periods used for crediting of qualifying years for non-regular retirement shall be based on “anniversary” years that are calculated from an anniversary date. The date used to determine the anniversary year is established by the date the member entered into active service or into active status in a reserve component.

(2) The start date (month and day) for each successive anniversary year will not be adjusted unless the member has a break in service. A break in service occurs only when a member transfers to an inactive status list, a temporary disability retired list, the Retired Reserve, or is discharged to civilian life for a period greater than 24 hours. There will be no break in service if the member transfers directly to another regular or reserve component.

(3) A member who has a break in service that occurs during an anniversary year shall be credited with a partial year for non-regular retirement. When a partial year occurs, the member must meet the minimum retirement point requirements set out in Section 8.C.11 of this chapter for the member’s service to be credited as a partial year towards a qualifying year. Partial years of qualifying service may be combined and credited toward total qualifying service.

b. For the purpose of determining entitlement to retired pay in accordance with 10 U.S.C. 12732, years of satisfactory federal service are computed by totaling all anniversary years in which at least 50 points have been credited on the following basis:

(1) one point for each day of active duty in an active or reserve component of an armed force, or each day of commissioned service in the National Oceanic and Atmospheric Administration or Public Health Service; ...

(2) one point for each authorized IDT drill, RMP or FHD period performed;

(3) 15 points a year for membership in a reserve component of an armed force;

(4) points earned by satisfactory completion of authorized correspondence courses.

c. The following service may not be counted in determining entitlement to retirement:

(1) service in an inactive section of a reserve component or in a non-federally recognized status in the National Guard;

(2) service in the Fleet Reserve or Fleet Marine Corps Reserve.

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. Although the applicant apparently learned in 2012 that he had not been credited with a year of qualifying service for AY 2011, the application is considered timely because he has remained on active duty since September 4, 2012.⁶

2. The applicant alleged that his failure to receive a qualifying year of service for Reserve retirement purposes for AY 2011 is erroneous and unjust because he was repeatedly miscounseled about his anniversary date. When considering allegations of error, the Board begins its analysis in every case by presuming that the disputed information is correct as it appears in the applicant's record, and the applicant bears the burden of proving by a preponderance of the evidence that it is erroneous or unjust.⁷ Absent evidence to the contrary, the Board presumes that a member's military records have been prepared "correctly, lawfully, and in good faith."⁸

3. The Board agrees with the JAG that the applicant's legal Reserve anniversary date is October 1 because he enlisted in the Reserve under the DEP on October 1, 2004. His time in the Reserve under the DEP was service in the Ready Reserve,⁹ and a reservist in the Ready Reserve is in an active status.¹⁰ Therefore, the applicant entered active status in the Reserve when he enlisted in the Reserve under the DEP on October 1, 2004. And the date he entered active status is his Reserve anniversary date, which is the start of his anniversary year.¹¹ Therefore, the applicant's AY 2011 ran from October 1, 2010, through September 30, 2011.

4. The applicant needed to accrue fifty points by performing active and inactive duty and completing correspondence courses to be credited with a qualifying year of service toward a Reserve (non-regular) retirement for his AY 2011.¹² Table C on page 5, above, shows that with an anniversary date of October 1, the applicant accrued only forty-six points in AY 2011, although he accrued more than enough points to be credited with qualifying years toward a Reserve retirement in AY 2010 and AY 2012. The Board also notes that Table A shows that the applicant would have been credited with a qualifying year of service in AY 2011 if his anniversary date had been February 22, as he was advised.

⁶ The Board has a three-year statute of limitations under 10 U.S.C. § 1552(b), but under *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994), section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940 "tolls the BCMR's limitations period during a servicemember's period of active duty."

⁷ 33 C.F.R. § 52.24(b).

⁸ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁹ 10 U.S.C. § 513; Recruiting Manual, COMDTINST M1100.2E, Chap. 2.E.8.a.

¹⁰ 10 U.S.C. § 101(d)(4); Reserve Policy Manual, COMDTINST M1000.28A, Chap. 1.C.2.

¹¹ Reserve Policy Manual, COMDTINST M1000.28A, Chap. 8.C.3.a.

¹² 10 U.S.C. § 12732; Reserve Policy Manual, COMDTINST M1000.28A, Chap. 8.C.3.b.

5. The preponderance of the evidence strongly supports the applicant's claim that he was repeatedly miscounseled about his anniversary date. A yeoman at his Servicing Personnel Office admitted in an email that in August 2011, when the applicant transferred from active duty to the Reserve, the yeoman erroneously told the applicant that his anniversary date was February 22. The yeoman also told the applicant that, because he had already performed several months of active duty in the anniversary year ending February 21, 2011, he would not need to drill regularly for points until after his next anniversary year started on February 22, 2011. The record shows that the applicant followed that advice and would have received satisfactory years of service for both AY 2011 and AY 2012 if his anniversary date had been February 22. The Board also notes that the applicant's LESEs show that the Coast Guard's pay database reset his anniversary year point totals to zero each August, which indicates that the database was calculating his point totals based on the erroneous anniversary date of August 17, 2010, the day the applicant transferred to the Reserve from the regular Coast Guard.

6. In light of the miscounseling the applicant received about his Reserve anniversary date, the Board finds that he has proven by a preponderance of the evidence that his failure to be credited with a qualifying year of service toward a Reserve retirement for his AY 2011 constitutes an injustice¹³ in his record. The Board is persuaded that if he had been accurately advised of his anniversary date, he would have accrued at least fifty points in his AY 2011, instead of incurring a non-qualifying year for Reserve retirement purposes.

7. The Coast Guard should ensure that the applicant's Reserve anniversary date is corrected to October 1 so that his anniversary years end on September 30 of each year. The Coast Guard should also correct his retirement points records by moving the four points that he received for IDT drills in October 2011 to September 2011 so that they will count toward his total points for AY 2011, instead of AY 2012, and bring that total up to fifty points to make his AY 2011 a qualifying year. As shown in Table C, above, subtracting four points from his total for AY 2012 and adding them to his total for AY 2011 will make both count as qualifying years for purposes of a Reserve retirement.

8. Based on the record, the Board is also concerned that the applicant may not know the differences in requirements and benefits between a regular, active duty retirement and a non-regular, Reserve retirement. Therefore, upon his request, the Coast Guard should advise him about those differences, as well as the provisions of Chapter 3.H. of the current Reserve Policy Manual, COMDTINST M1000.28C, which bars reservists from performing more than sixteen years of total active duty (except upon approval of a waiver) and so normally prevents reservists from earning regular, active duty retirements, which require twenty years on active duty.

¹³ *Reale v. United States*, 208 Ct. Cl. 1010, 1011 (1976) (finding that as used in 10 U.S.C. * 1552, the term "injustice" means "treatment by the military authorities that shocks the sense of justice but is not technically illegal"); *but see* 41 Op. Att'y Gen. 94 (1952), 1952 WL 2907 (finding that "[t]he words 'error' and 'injustice' as used in this section do not have a limited or technical meaning"); Decision of the Delegate of the Secretary, BCMR Docket No. 2002-040 (Dec. 4, 2002) (finding that the Board has authority to determine whether an injustice exists on a "case-by-case basis"); *Boyer v. United States*, 81 Fed. Cl. 188, 194 (2008) (finding that "[w]hen a board does not act to redress clear injustice, its decision is arbitrary and capricious").

ORDER

The application of [REDACTED], USCGR, for correction of his military record is granted as follows:

- The Coast Guard shall ensure that his Reserve anniversary date is corrected to October 1 in his military records, based on his original Reserve enlistment on October 1, 2004, so that his Reserve anniversary years end on September 30 each year.
- The Coast Guard shall correct his points records by reattributing the four (4) points that he received for IDT drills in October 2011 to September 2011 so that those four points will count toward his total points for AY 2011, instead of AY 2012, and raise his total for AY 2011 to fifty (50) points to make his AY 2011 a qualifying year of service for non-regular, Reserve retirement purposes.
- Upon his request, the Coast Guard shall advise him about the different requirements and benefits of a regular, active duty retirement versus a non-regular, Reserve retirement, as well as about the policies in Chapter 3.H. of the Reserve Policy Manual, COMDTINST M1000.28C.

September 8, 2017

