

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-068



FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the completed application on January 25, 2017, and assigned it to staff attorney [REDACTED] to prepare the decision for the Board pursuant to 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 former [REDACTED] (E-4) discharged from the Coast Guard Reserve on March 25, 1990, asked the Board to correct his record by correcting the number of points he earned during his last anniversary year. He stated that for "reasons unknown" he was not credited with any of the monthly retirement points he earned for the anniversary year March 26, 1989, to March 25, 1990. He claimed that there should be at least 4 points for each month instead of 0. The applicant therefore requested that the Board correct his final Retirement Point Statement to show that he earned 4 points each month.

The applicant explained that he provided several documents with his application in order to show that he was actively participating in his Reserve unit the last year of his contract. He argued that not only do the documents he provided prove that he was active in his unit, but the lack of any counseling also tends to prove that he did not miss an entire year of drills. In addition, he was honorably discharged at the end of his contract, which he argued would have been unlikely had he missed the entire last year of drills. The applicant explained that the Small Arms Firing Report indicates that he had drilled and qualified with certain firearms during that year. The Record of Emergency Data and Career Development Program both indicate that he had met with administrative personnel to complete necessary forms as well. The applicant argued that all of the documentation in his record shows that he was drilling and therefore asked that the Board correct his final Retirement Points Statement.

Regarding the timeliness of his application, the applicant acknowledged that it had been 27 years since he was honorably discharged. He stated that a Veterans Affairs advisor informed him around October 21, 2015, that there was a problem with his Reserve Retirement Point Statement.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard Reserve on March 26, 1984, for a period of six years. His Retirement Point Statements for his anniversary years ending on March 25 of 1985, 1986, 1987, 1988, and 1989 show that he drilled regularly.

On January 13, 1989, the applicant received notification that he had completed the Coast Guard Correspondence Course. He was informed that he passed his exam on January 8, 1989, with a score of 93.

On February 5, 1989, the applicant received an administrative entry in his record, which stated that he was advanced to a [REDACTED] as of February 1, 1989.

On March 17, 1989, the applicant received a Personnel Action document in his record stating that he had been advanced to a [REDACTED]

On April 16, 1989, the applicant filled out a Payment Option Election. It was processed on April 27, 1989.

On April 18, 1989, the applicant received a Personnel Action document in his record noting that his civilian occupation code had been updated.

On April 25, 1989, a Small Arms Record Firing Report indicates that the Senior Instructor signed off on several members having qualified with certain firearms. The applicant is named as having participated in four of the qualifiers: one on March 11, 1989, and three on April 8, 1989.

On April 27, 1989, the applicant completed an updated Tax Information Form, which was processed the same day.

On June 11, 1989, the applicant completed an updated Record of Emergency Data.

The applicant received an Enlisted Performance Evaluation Report for the period ending on June 30, 1989. The applicant was graded on a scale of one to seven, with seven being the highest, in thirty-eight different dimensions. The applicant received twenty-seven 4s and eleven 5s. There are no comments included with the evaluation, but the applicant did not receive any marks below standard (four on the scale).

There are several letters in the applicant's record which indicate that he was involved in an effort to assist a family aboard a boat which was experiencing difficulties and taking on water in 1989. On October 6, 1989, an individual wrote a letter to the applicant's District Command thanking the applicant by name, as well as a few other Coast Guard members, for their assistance when his "vessel struck a submerged rail road tie and started taking on water." The individual

thanked the Coast Guard and the members for their professional demeanor and their fast response time. On October 28, 1989, the Commander of the Reserve district provided a memorandum to the applicant's Commanding Officer (CO) asking that the letter from the individual be placed in the applicant's record. The Commander thanked the members, including the applicant, for a job well done and commended their performance which reflected well on the Coast Guard. On December 2, 1989, the applicant's CO provided the letter from the individual and the Commander to each of the members involved and thanked them for a job well done.

On November 5, 1989, the applicant completed a Career Development Program Interview Worksheet.

On February 4, 1990, an administrative entry was added to the applicant's record which stated, "After discussions with both CO & XO and due to civilian responsibilities, member decided not to reenlist upon completion of this contract." The entry is signed by the applicant.

On February 16, 1990, the applicant received Reserve Orders and Pay Voucher documentation.

On March 20, 1990, a Personnel Action sheet was entered into the applicant's military record. It states, "Honorable discharge. Fulfillment of service obligation. Recommended for reen. Does not desire to reenlist." The remarks state that a discharge certificate was mailed to his home address.

The applicant was discharged from the Coast Guard Reserve on March 25, 1990. He received an Honorable Discharge certificate to this effect.

The applicant's Retirement Points Statement for the period from March 26, 1989, to March 25, 1990, indicates that the applicant did not receive any points for "Drills and Appropriate Duty." The applicant was credited with no points except the standard 15 annual membership points for the year.

VIEWS OF THE COAST GUARD

On June 26, 2017, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant relief in this case and adopted the findings and analysis in a memorandum on the case prepared by the Coast Guard's Personnel Service Center (PSC).

PSC recommended that the Board grant relief because the applicant has shown that "his record is erroneous in regards to his points for the reserve anniversary year" of March 26, 1989, to March 25, 1990. PSC stated that the applicant's pay summary shows that he performed 43 Reserve drill periods that year, and yet his Retirement Reserve Point Statement shows that he received only membership points. PSC pointed out that a reservist must earn at least 50 points in an anniversary year for it to be a creditable year.¹ As evidenced by the applicant's pay records and his Reserve Retirement Points Statement, the applicant earned a total of 58 points for the anniversary year in question – enough to receive credit for a qualifying year of service. PSC therefore recommended

¹ Coast Guard Reserve Administration and Training Manual, COMDTINST M1001.27A, Article 12.C.3.a.(2).

that the applicant's record be corrected by updating his Reserve Points Statement to reflect the 43 drills he performed that year and that he be credited with a qualifying year of Reserve service.

With their memorandum, PSC provided a copy of the applicant's pay summary for the anniversary year in question. It shows that the applicant performed drills totaling 43 points during his last anniversary year.²

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 11, 2017, the applicant responded to the recommendation of the Coast Guard and stated that he has no objection to it.

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.³ The Reserve Retirement Points Statement in question is for the period of March 26, 1989, to March 25, 1990. The applicant acknowledged that his application is untimely but stated that he was informed in 2015 that there was a problem with his retirement points statement. The applicant was presumably issued his points statement in 1990 and should have reviewed it and learned of the error at the time. However, because he may not have reviewed it since he was being discharged, rather than retired, and he alleges that he was not aware of the error until 2015, the Board finds that his application is timely.
3. The applicant asked the Board to correct the number of points he earned during his anniversary year March 26, 1989, to March 25, 1990, and stated that the Reserve Retirement Points Statement as it stands is erroneous. 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.⁴ 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."⁵
4. The Reserve Retirement Points Statement for the period of March 26, 1989, to March 25, 1990, shows that the applicant did not perform any drills. The statement shows that he received only the standard 15 membership points for the year. However, the Coast Guard provided

² In accordance with the Coast Guard Reserve Administration and Training Manual, COMDTINST M1001.27, reservists receive one point per drill.

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

⁴ 33 C.F.R. § 52.24(b).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

a copy of the applicant's pay summary for that year, which shows that he was paid for 43 drills throughout the year. In addition, the record contains a number of documents which indicate that the applicant was participating throughout the year, including letters pertaining to a rescue mission in September 1989, various administrative forms, and an annual employee evaluation. Given all of the available documentation and the Coast Guard's recommendation to grant relief, the Board finds that the applicant has proven by a preponderance of the evidence that his last Reserve Retirement Points Statement is erroneous and warrants correction.

5. The Coast Guard should therefore correct the applicant's March 26, 1989, to March 25, 1990, Reserve Retirement Points Statement in accordance with his pay summary. The applicant should receive a total of 58 points for the anniversary year, including the 43 drill points and 15 membership points, and he should likewise be credited with a qualifying year of Reserve service.

(ORDER AND SIGNATURES ON NEXT PAGE)

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ORDER

The application of former [REDACTED] USCGR, for correction of his military record is granted. The Coast Guard shall correct his March 26, 1989, to March 25, 1990, Reserve Retirement Points Statement to accurately reflect the 43 paid drills he performed during that year, as well as the 15 membership points, so that his points total for the anniversary year shall be 58. The Coast Guard shall also ensure that he is credited with a qualifying year of Reserve service for retirement purposes for his anniversary year ending on March 25, 1990.

September 8, 2017

