

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-078



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 application on February 3, 2017, and assigned it staff member [REDACTED] to prepare for the Board required by 33 C.F.R. § 52.61(c).

This final decision, dated October 19, 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

The applicant, a [REDACTED] in the Coast Guard Reserve, asked the Board to correct her record to show that she entered the Reserve on May 16, 2015, as opposed to August 25, 2015. She stated that there was an administrative error with the Servicing Personnel Office (SPO). Due to this error, she requested that she receive 14 Reserve retirement points for the lost period, drill pay for the 14 Reserve retirement points, and correction of her record to show that she entered the Reserve on May 16, 2015.

The applicant explained that she and the Coast Guard had intended for her to be transferred from active duty into the Reserve within 24 hours of discharge. She was discharged from active duty on May 15, 2015, after receiving approval for temporary separation for care of a newborn child. During the temporary separation period, she had intended to affiliate with the Reserve. When she signed her DD 214 on May 15, 2015, she understood that she was being transferred to the Individual Ready Reserve (IRR) while she awaited assignment to a billet in the Selected Reserve (SELRES). She stated that the "SPO yeoman attempted to transfer [her] to the IRR...to be effective 16MAY2015, for the remainder of [her] initial eight-year military obligation." The yeoman miscounseled the applicant, however, when he told her that transfer into the IRR was automatic, and therefore did not have her sign a Reserve contract.

The applicant was offered a SELRES billet on June 8, 2015, which she accepted. At this time it was discovered that she had not been transferred into the Reserve but was instead entirely

separated from the Coast Guard. The transfer team attempted to resolve the issue, during which time she signed two contracts swearing her into the Reserve dated May 17, 2015, and July 30, 2015. Both contracts were subsequently deemed invalid because the length of the contract was not in whole years. The applicant signed another contract on August 25, 2015, which is the date she was effectively sworn into the Reserve. Due to the fact that identification and resolution of the error took from May 16, 2015, to August 25, 2015, the applicant asked to be reinstated for the 101 days of lost time in her service record to remove the break in service.

After speaking with her Reserve unit's SPO, the applicant learned that the error occurred because the yeoman had tried to transfer her between components to fulfill the remainder of her initial eight-year military obligation, but because of the approval for her temporary separation her remaining military obligation of two years and forty-four weeks had been absolved. As a result, there was no remaining time to transfer to the IRR when she was discharged from active duty. The correct procedure would have been to swear her into the Reserve with a new contract within twenty-four hours of separation from active duty.

The applicant stated that she believes this constitutes an error and injustice. She stated that she has "expended significant time and effort since [her discharge] in attempting to resolve this issue," as have the members of the SPO at her Reserve unit. Due to this error, she has missed 14 drill periods, a "gross pay loss of over \$1,097," 101 days of service time, and 14 Reserve retirement points. If this error is not corrected, she will have lost 14 points towards a Reserve Good Conduct Medal as well as the preceding active duty period of two years, eight weeks and five days (which is only creditable to the Reserve Good Conduct Medal if a member becomes affiliated with the Reserve within three months of separation).¹

In support of her application, the applicant provided documents and emails which are discussed below in the Summary of the Record.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on March 16, 2010. On February 11, 2015, the applicant submitted a request to the Personnel Service Center (PSC) for temporary separation for care of a newborn child. Her request states that she wished to affiliate with the Coast Guard Reserve during the temporary separation period. Her requested discharge date was May 15, 2015. Commander M endorsed the applicant's request on the same date, stating that the applicant "is an outstanding Coast Guard woman." He spoke very highly of the applicant and stated that he looked forward to her "seamless reinstatement at the conclusion of this temporary separation." One of the enclosures attached to this request was a "Notice of Intent to Affiliate with the Reserve During Temporary Separation." The applicant stated that she intended to affiliate with the Reserve starting on May 16, 2015.

A Routing and Transmittal Slip was signed by various members of the applicant's chain of command with dates ranging from March 16, 2015, to March 19, 2015. A handwritten note on the sheet states "[the applicant's] 2-year temp sep has been approved! She does want to get into the Reserves, which I fully support. Therefore, her PCS departing worksheet and career

¹ COMDTINST M1650.25D, Article 5.A.3.a.(6).

intention worksheet – Reserves, are attached... Temp sep begins 5/15/15.” The attachment to this document was not included.

The applicant was discharged from active duty on May 15, 2015. Her DD 214 states that she had served five years and two months of her eight year service obligation. Block 9, which is titled “Command to which Transferred” states “Individual Ready Reserve.” The applicant signed the DD 214 on the same day.

The applicant’s Direct Access page (a human resources database used by the Coast Guard) states that the applicant entered the Reserve on May 16, 2015.

The record contains three Reserve enlistment contracts. The first is dated May 17, 2015, and states that the applicant was enlisting for two years and forty-four weeks.

On June 8, 2015, the applicant was offered a SELRES position from her current Reserve unit. An email chain between members of the Reserve unit and the applicant began on July 24, 2015. The first email was sent among members of the unit and states that the applicant’s swearing in would be on July 29, 2015, and if not that the correct date was needed. On August 17, 2015, another member stated that there was an issue with the applicant’s contract because it was for two years and forty-four months, but the system would only allow for whole years. On the same date, another member elaborated and stated that there is only authority to enlist members for a whole number of years. He also stated that the applicant was absolved of her remaining obligated service when she was discharged. As a result, there was “no programming that will allow this contract to be correctly entered.” He also stated that contracts cannot be back-dated. He therefore recommended that the applicant be sworn into the Reserve and simultaneously assist her in preparing an application to the BCMR to edit her contract. The remaining emails discussed having the applicant sign a new contract for a whole number of years.

The second Reserve enlistment contract is dated July 30, 2015, and states that the applicant was enlisting for two years and forty-four weeks. The third is dated August 25, 2015, and is for a period of three years.

VIEWS OF THE COAST GUARD

On July 14, 2017, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis in a memorandum prepared by the Personnel Service Center (PSC) and recommended granting relief.

PSC stated that the applicant has shown that the Coast Guard erred in drafting erroneous enlistment contracts that did not adhere to Coast Guard policy. As a result of these errors, the applicant’s entry into the Reserve was delayed. PSC therefore found that relief is justified for the applicant. PSC recommended that block 5 of her Reserve enlistment document, which is currently dated August 25, 2015, be amended to May 16, 2015, the date that corresponds to her Direct Access record and the date she intended to enter the Reserve. PSC further recommended that the applicant be credited with fourteen Reserve retirement drill points because she showed that she had exercised due diligence in attempting to affiliate with the Reserve on May 16, 2015,

and due to the Coast Guard's errors she was denied the opportunity to drill between that date and August 24, 2015. PSC also recommended that she be credited with the associated Reserve drill pay and allowances for this period.

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 her to submit a response within thirty days. On August 6, 2017, the applicant responded and stated that she had no objections to the Coast Guard's recommendations.

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.

2. The applicant alleged that the Coast Guard erroneously caused her entry to the Reserve to be delayed. 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.² 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."³

3. The Board finds that the applicant has proven by a preponderance of the evidence that the Coast Guard erroneously delayed her entry into the Reserve from May 16, 2015, to August 25, 2015. The applicant provided ample evidence that she fully intended to enter the Reserve within twenty-four hours of her discharge on May 15, 2015, as evidenced by her request for temporary separation and a document specifically outlining her intent to affiliate with the Reserve attached to her separation request. Her current unit explained to her over email that a mistake had been made with her enlistment contracts, due in part to the fact that her remaining obligation had been absolved and in part because her first two Reserve enlistment contracts were not for a whole number of years. The Board therefore finds that the applicant should receive relief.

5. Accordingly, relief should be granted by directing the Coast Guard to correct her record to show that she enlisted in the Reserve on May 16, 2015, instead of August 25, 2015; that she received membership points for her service from May 16 to August 24, 2015, and earned 14 points for drills as a member of the Selected Reserve during that period. The Coast Guard should pay her any back pay and allowances due as a result of these missed drills.

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

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

- The Coast Guard shall correct her record to show that she enlisted in the Coast Guard Reserve on May 16, 2015, instead of August 25, 2015.
- The Coast Guard shall correct her record to show that she received membership points for the period from May 16, 2015, through August 24, 2015, and earned 14 drill points as a member of the Selected Reserve.
- The Coast Guard shall pay her any back pay and allowances due as a result of these corrections.

October 19, 2017

