

**DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 1998-111**

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**FINAL DECISION**

**██████████ Attorney-Advisor:**

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. It was commenced upon the BCMR's receipt of the applicant's request on September 1, 1998.

This final decision, dated May 6, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

**RELIEF REQUESTED**

The applicant, a former xxxxxxxxxxxx in the Coast Guard, now serves in the Coast Guard Reserve. He asked the Board to change his date of discharge from active duty from April 1, 198x, to April 3, 198x, so that he would not have to perform an extra year of drilling to qualify for a 20-year retirement.

**APPLICANT'S ALLEGATIONS**

The applicant alleged that he was discharged on April 1, 198x, rather than April 3, 198x, because April 3rd fell on a Sunday. If he had been discharged on April 3rd, he would have completed 10 full years on active duty. Instead, he completed only 9 years, 11 months, and 29 days on active duty.

The applicant alleged that he expected to qualify for a 20-year retirement in April 199x. However, he received no papers regarding his retirement. Upon inquiry, he was told that he would have to complete an extra year of drilling because he had missed completing 10 years on active duty by just one day. The

applicant alleged that this was unjust because he had been specifically advised to be discharged on April 1st so that he could enter the Reserves the same day and his record would show no break in service. Moreover, his assigned drilling station in xxxxxx, is more than 100 miles from his home in xxxxxxxxx.

### **VIEWS OF THE COAST GUARD**

On April 13, 1999, the Chief Counsel of the Coast Guard recommended that the Board deny the applicant's request. The Chief Counsel attached to his advisory opinion a memorandum from the Coast Guard Personnel Command (CGPC). CGPC explained the following with regard to members whose end of service falls on a weekend or holiday:

It is Coast Guard policy to release a member early on Friday so they can reach a recruiter within 24 hours if they change their mind and decide to re-enlist. Once they are released early, there is no credit given for the Saturday, Sunday, or Holiday that they do not serve. Members are commonly released two days early, vice being extended one day.

CGPC stated that the "applicant has made arrangements to drill in April 199x so that he obtains one day towards retirement and thus becomes eligible for a 20-year Coast Guard Reserve Retirement."

On April 14, 1999, the Chairman sent the applicant a copy of the views of the Coast Guard and invited him to respond within 15 days. The applicant did not respond.

### **SUMMARY OF THE RECORD**

On April 3, 197x, the applicant originally enlisted in the Coast Guard for a term of 4 years. He subsequently extended this enlistment three times, obligating himself to serve another 6 years, through Saturday, April 2, 198x. On Friday, April 1, 198x, the applicant was discharged after having served 9 years, 11 months, and 29 days on active duty. On Saturday, April 2, 198x, the applicant joined the Reserve, where he continues to serve.

### **APPLICABLE LAWS**

Article 12-B-11.a. of the Personnel Manual (COMDTINST M1000.6), in effect in 198x, states that "[u]nless voluntarily or involuntarily retained beyond normal date of expiration of enlistment as provided in this article or by other instructions issued by the Commandant, a member shall be discharged, or released from active duty and transferred to the Reserve to fulfill any remaining

service obligation, on the day next preceding the applicable anniversary date of enlistment. See article 12-B-7 for conditions allowing early separation . . . .”

Article 12-B-7.a. states that “[e]arly separation under the provisions of this article does not deprive a member of any right, privilege, or benefit otherwise entitled to, except the pay, allowances, and credit for service for unexpired period not served.”

Article 12-B-7.c. states that “[p]ersonnel not eligible for early separation under paragraph b. hereof whose normal date of expiration of enlistment, extensions of enlistment or period of active duty falls on a Friday, Saturday, Sunday, or holiday shall be separated not more than 7 days prior to normal date of separation.”

Article 1-G-8 states that “[a] person reenlisting within 24 hours after discharge may be reenlisted at the unit to which last regularly assigned. All other reenlistments shall be effected only at a regular recruiting officer.”

Article 1-G-6 states that “[a] person must reenlist within 3 months from date of discharge in order to remain in a continuous service status and to receive the benefits derived therefrom.”

## 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 submissions, 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 applicant was discharged on Friday, April 1, 198x, one day short of his expiration of enlistment on Saturday, April 2, 198x. He had served 9 years, 11 months, and 29 days on active duty. Under Article 12-B-7.a., he received no credit for the missing day. He therefore had to complete 11 years of drilling in the Reserve, rather than 10 years, to qualify for a 20-year retirement.

3. Under Article 12-B-7.c., commanding officers were permitted to discharge members up to seven days early if their normal expiration of enlistment fell on a weekend, Friday, or holiday. The Coast Guard alleged that this provision was often used to discharge members on a weekday so that if they changed their minds within 24 hours they could reenlist in the regular Coast Guard with no break in service shown. The applicant apparently received and

accepted this advice but did not understand the advice or the effect of being discharged one day early on his retirement.

4. The Coast Guard did not commit error in applying its regulations with respect to the applicant's discharge. The Coast Guard could rewrite its regulations to avoid the problems presented by expirations of enlistments that fall on weekends without requiring such members to perform an extra year of drilling to make up for one or two days of active duty service. However, because the applicant apparently chose to be discharged one day early, perhaps on the basis on misunderstood advice, the Board does not find that the result of the regulations as applied in this case was unconscionably or clearly unjust. Furthermore, because the applicant apparently has already performed sufficient drilling to qualify for a 20-year retirement, this issue is moot.

5. Accordingly, because the Coast Guard's actions were not clearly unjust and the applicant has already qualified for a 20-year retirement, his request should be denied.

**[ORDER AND SIGNATURES APPEAR ON THE NEXT PAGE]**

**ORDER**

The application for correction of the military record of former XXXXXXXX, USCG, is hereby denied.

