

**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. 2001-077**

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**FINAL DECISION**

**ANDREWS, Deputy Chair:**

This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The BCMR docketed this case on April 18, 2001, upon receipt of the applicant's completed application.

This final decision, dated February 14, 2002, is 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 electrician's mate third class (EM3; pay grade E-4), asked the Board to correct his record to show that he was enlisted in the Coast Guard Reserve as an electrician's mate second class (EM2; pay grade E-5). He also asked to be awarded the back pay and allowances he would be due as a result of the correction.

The applicant alleged that when he enlisted in the Reserve on November 2, 2000, he asked his recruiter if he could enlist as an E-5. His recruiter told him that because he had been serving as an E-4 in the National Guard, he could only enlist in that pay grade. The applicant alleged that he had since discovered that this was untrue. He alleged that he qualified for an E-5 enlistment, that there were several EM2/E-5 billets open at the time he enlisted, and that he is currently serving in an EM1/E-6 billet.

The applicant alleged that, because his recruiter believed he had to enlist as an E-4, the recruiter submitted a "rate determination package" to the Integrated Support Command (ISC) in requesting approval of the applicant's enlistment as an E-4. He alleged that if the recruiter had submitted a rate determination package requesting approval of the applicant's enlistment as an E-5, the ISC would have approved it.

In support of his allegations, the applicant submitted a copy of a rate determination sheet that shows that he had the qualifications to enlist as an E-5. He also

submitted seven certificates indicating his completion of various electronics and technical courses and a summary of his private-sector work history as an electrician, technician, and mechanic.

The applicant also submitted a statement signed by his recruiter, who confirmed that he was enlisted as an E-4 “based solely on [his] being an E-4 in the National Guard.” The commanding officer of the ISC endorsed the applicant’s request as well, concluding that “there is sufficient evidence ... to support his entry into the Coast Guard as an EM2.” In addition, the applicant submitted a letter from his Reserve supervisor, who stated that he completed all assignments with “journey level professionalism” and that his leadership skills and technical expertise justified an immediate promotion.

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

On September 14, 2001, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant’s request.

In making this recommendation, the Chief Counsel relied on a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC). CGPC stated that it had forwarded a copy of the application to its EM Force Manager for an opinion as to whether the applicant should have been enlisted as an E-5. The EM Force Manager had recommended that the applicant’s enlistment contract be corrected to show that he enlisted as an EM2/E-5. Therefore, CGPC recommended that the applicant be retroactively reenlisted at the higher rate and that he be awarded all associated back pay and allowances.

### **APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On September 18, 2001, the BCMR sent the applicant a copy of the Chief Counsel’s advisory opinion and invited him to respond within 15 days. On October 1, 2001, the applicant responded, stating that he agreed with the Chief Counsel’s recommendation.

### **APPLICABLE REGULATIONS**

Under Chapter 5.D.1. of the Reserve Policy Manual, when experienced personnel at least 24 years of age first enlist in the Reserve, they may be enlisted as either E-4s or E-5s, depending upon their qualifications. The recruiter is supposed to determine which rate and billet the candidate qualifies for and submit a “rate determination package” for approval by an ISC review panel. Under ALCGRSV 010/00, if the panel approves an E-4 rate determination package, the ISC authorizes the recruiter to enlist the candidate. If the recruiter submits an E-5 rate determination package and the package is approved by the ISC review panel, the package is forwarded to CGPC and the force manager for further review and authorization.

### **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's recruiter has admitted that he erroneously submitted an E-4 rate determination package for the applicant based solely on the applicant's rate in the National Guard, rather than on his skills and qualifications as an EM.
3. The EM Force Manager, ISC , CGPC, and the Chief Counsel have each determined that, at the time of his enlistment, the applicant was qualified to be enlisted as an EM2/E-5. They have recommended that the Board grant his request.
4. The applicant has proved by a preponderance of the evidence that the Coast Guard erred by enlisting him as an EM3/E-4. He has proved that if his recruiter had submitted an E-5 rate determination package for him based on his skills and qualifications, the ISC review panel, CGPC, and the EM Force Manager would have approved his enlistment at the higher rate and pay grade.
5. Accordingly, the applicant's request should be granted.

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

**ORDER**

The application of \_\_\_\_\_, USCGR, for correction of his military record is granted.

His record shall be corrected to show that he enlisted in the Reserve as an EM2/E-5 on November 2, 2000, instead of as an EM3/E-4.

The Coast Guard shall pay him any back pay and allowances he is due as a result of this correction.

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Coleman R. Sachs

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Jacqueline L. Sullivan

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Nilza F. Velázquez