

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

Application for Correction
of Coast Guard Record of:

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

BCMR Docket
No. 2001-115

FINAL DECISION

Ulmer, Chair:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The proceeding was docketed on July 25, 2001, upon the BCMR's receipt of the applicant's complete application for correction of his military record.

This final decision, dated May 16, 2002, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant asked the Board to change the date of his indefinite reenlistment from June 1, 2001 to June 2, 2001. This correction would permit him to be paid for leave sold at the E-8 pay grade rather than the E-7 pay grade.

The applicant was advanced from E-7 to E-8 on June 1, 2001. Also at this time, he was planning to make a permanent change of station (PCS) move. However, before transferring, he was required to extend his enlistment or to reenlist so that he would have enough obligated service to complete a tour of duty at the new duty station. So, on June 1, 2001, he signed an indefinite reenlistment agreement,ⁱ at which time he sold 30 days of leave. He was paid for this leave at the E-7 pay grade. He alleged that he was incorrectly advised that if he reenlisted on the day that he was advanced, he would be able to sell 30 days of leave at the E-8 rather than the E-7 rate. The applicant's

ⁱ Per ALCOAST 174/01, "Effective April 1, 2001, active duty members, E-5 and above, with at least 10 years of active duty, who desire to continue on active duty, are required to reenlist for an indefinite period upon completion of any obligated service that takes them beyond their 10 year anniversary date." This message also stated "federal statute only allows service members to sell leave upon reenlistment, first extension or in connection with separation/retirement processing. Therefore, this will be a member's last opportunity to sell lump sum leave prior to either separating or retiring."

commanding officer (CO) admitted that the applicant had been given this erroneous advice.

VIEWS OF THE COAST GUARD

On November 19, 2001, the Chief Counsel of the Coast Guard adopted the analysis of the Commander, Coast Guard Personnel Command (CGPC) as the advisory opinion. He recommended that the applicant be granted relief.

CGPC found that the applicant was incorrectly counseled that if he reenlisted on the same day that he was advanced, he would receive pay for leave sold at his new pay grade. However, CGPC stated that according to the Pay Manual members are paid for leave sold at the pay grade held on the day of discharge or the day prior to the effective date of an extension of enlistment.

CGPC concluded its advisory opinion by recommending that the following actions be taken in this case: "The applicant's indefinite reenlistment completed on June 1, 2001 should be cancelled. To maximize applicant's monetary gain in selling leave, a new indefinite reenlistment should be completed with a date any time between June 2, 2001 and June 10, 2001." (June 10th is the date the applicant reported to his new duty station).

Applicant's Reply to the Views of the Coast Guard

On December 14, 2001, the Board received the applicant's response to the views of the Coast Guard. He agreed with them.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and the Coast Guard, the military record of the applicant, and applicable law.

1. The Board has jurisdiction of the case pursuant to section 1552 of title 10 of the United States Code. The application was timely.

2. The applicant submitted persuasive evidence that the Coast Guard committed an error by erroneously advising the applicant that if he reenlisted on June 1, 2001, the date of his advancement to E-8, he would receive pay for leave sold at the E-8 rate. Under Article 10.A.6. of the Pay Manual, the pay for leave sold is based on the pay grade held on the day of discharge or the day prior to the effective date of an extension

of enlistment. The applicant should have been advised to reenlist on June 2, 2001, rather than June 1, 2001, to receive pay for leave sold at the E-8 pay rate.

3. Accordingly, the applicant is entitled to relief.

ORDER

The application of XXXXXXXXXXXXXXXXXXXX USCG, for correction of his military record is granted.

The applicant's indefinite reenlistment dated June 1, 2001, shall be corrected to show that he reenlisted for an indefinite period on June 2, 2001 and that he sold 30 days of leave at that time. He shall be paid for this leave at the E-8 rate. The Coast Guard shall pay the applicant the sum he is due as a result of this correction.

Robert C. Ashby

David H. Kasminoff

Sherri L. Pappas