

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2007-112**

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**FINAL DECISION**

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 Chair docketed the case on March 8, 2007, upon receipt of the completed application, and assigned it to staff member J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 29, 2007, 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 asked the Board to amend his 1978 temporary additional duty (TAD) orders to permanent change of station (PCS) orders so that he will be able to receive travel pay and allowances. The applicant stated that when he completed boot camp on July 14, 1978, he was transferred on TAD orders from the training center in New Jersey to a training center in California to attend “A” School to become a sonar technician. He alleged that under paragraph 2.A.2.a.(17) COMDTINST 1500.10, his “A” School orders should have been PCS orders for duty under instruction (DUINS), rather than TAD orders, because his “A” School training lasted more than 20 weeks. The applicant stated that if he had been properly issued PCS orders, he would have been entitled to significant compensation in travel pay and allowances. He alleged that he discovered the error on February 5, 2007.

In support of his allegation, the applicant submitted a copy of his Reserve enlistment contract, dated April 11, 1978, which shows that he was guaranteed enrollment in the sonar technician “A” School class convening on August 7, 1978. Other military records show that he enlisted in the regular Coast Guard on May 15, 1978; completed boot camp in New Jersey on July 14, 1978; and attended ten months of “A” School in California from August 7, 1978, to March 30, 1979. In addition, the applicant submitted a copy of paragraph 2.A.2.a.(17) of COMDTINST M1500.10B, which states the following:

(17) Type of orders issued. Upon completion of “A” School, all personnel will be reassigned by Commandant (G-PE).

(a) Non-rated personnel orders to class “A” school immediately following recruit training will be issued orders for Temporary Duty Under Instruction (TEMDUINS). This training is considered a continuance of their basic training and per diem is not authorized.

(b) Petty officer/non-rated personnel ordered to a course of instruction from other than recruit training, whose course length is less than 20 weeks, will be issued orders for Temporary Duty Under Instruction (TEMDUINS) (Permanent Change of Station (PCS) for members without dependents, and Temporary Additional Duty (TAD) for members with dependents). ...

(c) Petty officers/non-rated personnel ordered to a course of instruction from other than recruit training, whose course length is 20 weeks or more, will be issued orders for Duty Under Instruction (DUINS) and PCS.

## **VIEWS OF THE COAST GUARD**

On July 31, 2007, the Judge Advocate General of the Coast Guard recommended that the Board deny the applicant’s request. He forwarded to the Board a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC), adopted the findings and analysis therein, and asked the Board to accept it as the Coast Guard’s advisory opinion.

CGPC stated that the orders issued for the applicant’s attendance at “A” School in 1978 are no longer in his record. However, CGPC submitted a copy of the applicant’s assignment history from its Direct Access database. The history shows that was assigned to the New Jersey training center for boot camp on May 15, 1978, and that his very next assignment, dated July 25, 1978, was to attend “A” School at the training center in California. CGPC stated that “assignments listed in the Direct Access assignment summary reflect permanent assignments and typically not temporary duty assignments.” Nevertheless, CGPC argued, the applicant’s analysis of the regulation is flawed because subparagraph 2.A.2.a.(17)(a) of COMDTINST 1500.10B

clearly states that orders to “A” School immediately following recruit training will be TAD. And the section he points to in support of his claim reiterates this distinction in that DUINS and PCS orders are issued for service members who are ordered to a course of instruction “FROM OTHER THAN RECRUIT TRAINING” (emphasis added). Since the applicant transitioned directly from recruit training to Sonar Technician Class “A” School, the provision for DUINS/PCS orders does not apply in his case and he should have been issued TAD orders, which is the form of orders he asserts were issued.

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

On August 2, 2007, the Chair sent a copy of the Coast Guard’s advisory opinion and invited him to respond within thirty days. No response was received.

## **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.<sup>1</sup>

2. The Board must begin its analysis by presuming that the applicant's orders to "A" School in 1978 were issued correctly, and the applicant bears the burden of submitting probative evidence and of proving by a preponderance of the evidence that his orders were incorrect.<sup>2</sup>

3. The Board finds that the applicant has not overcome the presumption of regularity that must be accorded his 1978 orders to "A" School for three reasons:

(a) The applicant failed to submit a copy of the disputed orders so the Board is unable to determine what type of orders were actually issued. No copy of these orders appears in the military records provided to the Board by the Coast Guard.

(b) The applicant based his claim on paragraph 2.A.2.a.(17) of COMDTINST 1500.10B, a regulation that was not issued until 1988.

(c) Even assuming that the regulations in 1978 were the same or similar to those in COMDTINST 1500.10B, the applicant would not have been entitled to PCS orders. The Coast Guard's Direct Access database shows that he was transferred directly from boot camp to "A" School. Paragraph 2.A.2.a.(17)(a) of COMDTINST 1500.10B states that temporary duty orders—not PCS orders—are issued to all members who, like the applicant, are transferred directly from boot camp to "A" School regardless of the duration of the "A" School training.

4. Accordingly, the applicant's request should be denied.

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

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<sup>1</sup> *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994) (holding that section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940 "tolls the BCMR's limitations period during a servicemember's period of active duty").

<sup>2</sup> 33 C.F.R. § 52.24(a) and (b).

**ORDER**

The application of xxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is denied.

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George J. Jordan

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James E. McLeod

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Dorothy J. Ulmer