

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2007-198**

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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 August 24, 2007, upon receipt of the applicant's 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 May 29, 2008, 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 correct his transfer orders "to authorize actual delay for a total of three travel days," instead of just one day. He further asked that following this correction, he be paid for lodging, taxi costs, and per diem in accordance with regulations.

The applicant stated that in January 2000 he was serving on a cutter that was away from its homeport when he received last-minute permanent transfer (PCS) orders to Base Charleston, South Carolina. The orders authorized just one day of travel time because the cutter's homeport was Charleston. However, the orders required him to report to Base Charleston by January 14, 2000, and the cutter was then in Getmo, Cuba. Therefore, the ship's yeoman arranged for him to stay ashore at Getmo after the cutter departed on January 10, 2000, and wait for a commercial airplane flight back to Charleston on January 12, 2000. However, neither the yeoman of the cutter nor the yeoman of his new unit corrected his orders to allow for the wait in Getmo.

In support of his allegations, the applicant submitted section U5160H of the Joint Federal Travel Regulations (JFTR), which states that "[a]dditional travel time may be authorized/ approved by the member's new command when travel is delayed beyond that authorized in subpars. B-F for reasons beyond member's control (such as acts of God, restrictions by Government authorities, difficulties in obtaining fuel for POCs, or other satisfactory reasons)." The applicant also submitted copies of his travel orders, showing that he was authorized only one day of travel time, and travel vouchers showing that he moved from the cutter to government housing at Naval Station Guantanamo Bay, Cuba, on January 10, 2000, and that on January 12, 2000, he

took a \$20 taxi ride to the airport and caught commercial flights from Getmo to Charleston by way of Jacksonville, Florida. His receipts show that he paid \$7.00 per night for two nights at the Naval Station. He also submitted a form showing that he received only one day of per diem for his travel January 12, 2000.

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

On January 8, 2008, the Judge Advocate General (JAG) of the Coast Guard recommended that the Board grant relief. The JAG stated that the documentation supports the applicant's allegation that he was delayed for two days at Guantanamo Bay, Cuba, in conjunction with the execution of his PCS orders to Base Charleston, but that his orders were never amended to reflect the delay. The JAG stated that there is no evidence in the record that the applicant timely requested amendment of his PCS orders but that it would be in the interest of justice to amend them and to recompute his travel voucher based upon two additional days of travel.

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

On January 14, 2008, the applicant responded to the JAG's advisory opinion. He stated that he "did advise the admin/unit yeoman that my travel time was outside of the authorized orders. At the time I was merely a FA/E-2, with less than four months of military service, ... and not at all proficient with the JFTR and its policies." Therefore, although he complained about the orders, he did not know how to get reimbursed for his extra costs. However, the yeoman of his new unit should have known to get his PCS orders amended so that he could be reimbursed.

### **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 10 U.S.C. § 1552. The application was timely under *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").

2. The applicant has proved by a preponderance of the evidence that in January 2000, he was erroneously authorized only one day of travel time from his cutter, which was then underway in Guantanamo Bay, to his new unit in Charleston, South Carolina. The record shows that he should have been authorized three days of travel time since he left the cutter on January 10, 2000, and his commercial flights to Charleston were not until January 12, 2000.

3. Accordingly, relief should be granted by amending block 8 on the applicant's PCS orders for reporting to CG Base Charleston at 2400 14 JAN 2000 to show that he was authorized 03 days of travel time. In addition, the Coast Guard should pay the applicant any amount he may be owed for per diem or for reimbursement of lodging, food, and transportation expenses as a result of this correction.

**ORDER**

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is granted as follows:

The Coast Guard shall correct block 8 on his PCS orders (form CG 5131) for reporting to CG Base Charleston at 2400 14 JAN 2000 to show that he was authorized 03 days of travel time (instead of 01 day). In addition, the Coast Guard shall pay him any amount he may be owed, such as per diem or reimbursement of lodging, food, and transportation expenses, as a result of this correction.

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Donna M. Bivona

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Diane L. Donley

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Richard Walter