DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2009-253

XXXXXXXXXXXXXXX
XXXXXXXXXXXXXXX

FINAL DECISION

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. The Chair docketed the application upon receipt of the applicant's completed application and military records on September 12, 2009 and subsequently prepared the final decision as required by 33 C.F.R. § 52.61(c).

This final decision, dated May 27, 2010, 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 record to show that he sold 58.5 days of leave when he reenlisted for an indefinite period on December 2, 2008. The applicant alleged that he was not counseled that he could sell leave when he reenlisted.

He submitted a statement from a lieutenant junior grade (LTJG) at his unit. The LTJG stated that due to improper counseling, the applicant was unaware that after entering into an indefinite reenlistment contract he could no longer sell leave until he either separated or retired from the Coast Guard.

VIEWS OF THE COAST GUARD

On January 12, 2010, the Judge Advocate General (JAG) of the Coast Guard submitted a memorandum adopting the comments provided by Commander, Personnel Service Center (PSC), as the Coast Guard's advisory opinion.

PSC attached a statement from a chief yeoman who verified that the applicant was not counseled on the authorization to sell leave. PSC stated that the applicant has substantiated an injustice in his record. In this regard, PSC stated that based on the statements provided by the applicant's unit, the applicant was improperly counseled on his ability to sell leave upon executing an indefinite reenlistment contract and, if he had been properly counseled, he would have sold leave upon his indefinite reenlistment.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 26, 2010, the BCMR received the applicant's response to the views of the Coast Guard. He stated that he had no objections to the advisory opinion.

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 Coast Guard admitted that personnel at the applicant's unit either improperly counseled or failed to counsel him about the limited opportunity to sell leave when he entered into an indefinite reenlistment. Under Article 7.A.20.a. of the Personnel Manual, an active duty member could sell leave on the date of discharge or separation from active duty up to a maximum career total of 60 days. However, indefinite reenlistments eliminated the need for periodic reenlistments and members like the applicant who did not sell leave at the time of their indefinite reenlistments could not do so until their separation or retirement. According to his unit's personnel, if the applicant had been properly counseled about the sale of leave, he would have chosen to sell leave upon his indefinite reenlistment.

3. The Board concurs with the advisory opinion, as does the applicant.

4. Accordingly, the applicant has proved an error or injustice in his military record, and relief should be granted.

[ORDER AND SIGNATURES APPEAR ON FOLLOWING PAGE]

ORDER

The application of XXXXXXXXXXXXXXX, USCG, for correction of his military record is granted. His record shall be corrected to show that upon his indefinite reenlistment on December 2, 2008, he sold 58.5 days of leave. The Coast Guard shall pay the applicant the sum owed as a result of this correction. The Coast Guard shall pay the applicant the sum owed as a result of this correction.

Randall J. Kaplan

Erin McMunigal

Thomas H. Van Horn