

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2011-181

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

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 after receiving the applicant's completed application on June 3, 2011, and assigned the case 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 February 23, 2012, 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 enlisted as a third class petty officer (pay grade E-4), rather than a seaman (pay grade E-3). He alleged that he enlisted in the Reserve under the Prior Service Enlistment Program (RQ), and that under that program the beginning pay grade is E-4. However, his recruiter erroneously enlisted him in pay grade E-3.

In support of these allegations, the applicant submitted a memorandum from the Commandant to the Recruiting Command dated February 3, 2010, which announced several changes to the various Reserve programs. Paragraph 1.e. announces changes to the RQ program and states the following in pertinent part:

The RQ program is expanded to allow for DoD personnel with greater than 8 years of honorable service to enter the Coast Guard with a rate determination package. This allows for experienced, prior service members to access as Petty Officers (maximum accession rank is E-4) and attend DEPOT [Direct Entry Petty Officer Training] based on their prior service leadership skills and experience (e.g., Army tankers have the leadership skills and experience but not Coast Guard specific skills). Rate determination package recommendation by RFMCs required unless prior Coast Guard member is separated less than 5 years. Recruiters will prepare and submit rate determination packages to CGRC [the Recruiting Command] for prior service members from DoD services whose military experience does not translate to a Coast Guard rating.

The applicant also submitted his Reserve enlistment contract dated March 6, 2011, with a Record of Military Processing showing that he was enlisted as an E-3 and signed an “Annex L—RQ Statement of Understanding; Guaranteed MST [marine science technician] A School on 03 JAN 2012.” The Annex L Statement of Understanding for the RQ program that the applicant signed on January 28, 2011, states the following in paragraph 3: “For those enlisting as E-3: I have been guaranteed assignment to Class A-School for the MST rating. ...”

The applicant also submitted a discharge form DD 214 showing that he had previously served exactly four years in the U.S. Marine Corps from November 21, 1989, to November 20, 1993, and was honorably released into the Marine Corps Reserve in pay grade E-4. The DD 214 shows that he spent 17 months as a field radio operator and 18 months as a reconnaissance marine parachutist.

VIEWS OF THE COAST GUARD

On September 14, 2011, the Judge Advocate General submitted an advisory opinion in which he recommended that the Board deny relief in this case. In so doing, he adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

The PSC stated that the applicant’s specialties in the Marine Corps were field radio operator and reconnaissance marine parachutist and that there is no equivalent Coast Guard rating for these specialties. Therefore, the applicant was enlisted with a promise of guaranteed “A” School to become an MST. The PSC noted that the Recruiting Manual describes the RQ program in Table 3-A and states that if the member was discharged from a service other than the Coast Guard and discharged more than five years previously, a rate determination must be made and that

E-4s and E-5s from other services whose military occupational specialties do not translate to a Coast Guard rating may be enlisted as E-3s and shall receive a guaranteed “A” School to immediately follow REBI [Reserve Enlisted Basic Indoctrination]. The time-in-grade requirement for advancement to E-4 shall be waived and the member shall immediately advance upon graduation from “A” School.

The PSC stated that pursuant to this policy, the applicant’s pay grade remains E-3 until he graduates from MST “A” School. Therefore, the Board should deny relief.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 20, 2011, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 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 submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely filed.

2. The applicant alleged that he should have been enlisted in pay grade E-4 because of his prior military service but that his recruiter made a mistake by enlisting him as an E-3. The Board begins its analysis in every case by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust. 33 C.F.R. § 52.24(b). Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith." *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

3. The revision of the policy for the RQ program announced in the memorandum dated February 3, 2010, expanded the program "to allow for DoD personnel with greater than 8 years of honorable service to enter the Coast Guard with a rate determination package." This memorandum does not require prior service members enlisting in the RQ program to be enlisted in pay grade E-4; it merely allows them to be enlisted in pay grade E-4 depending upon the outcome of a rate determination.¹ As the PSC stated, there is no equivalent Coast Guard skill rating for a veteran discharged from active duty in 1993 with training and service as a field radio operator and a reconnaissance marine parachutist. The record shows that, instead of receiving a petty officer rating and E-4 pay grade, the applicant was enlisted in advanced pay grade E-3, based on his prior military service, and was guaranteed training as a marine science technician with advancement to E-4 upon graduation. He signed an Annex L regarding his E-3 pay grade and MST "A" School on January 28, 2011, and that annex was incorporated by reference in his enlistment contract. The Board concludes that the evidence of record does not substantiate that the Coast Guard committed any error or injustice in enlisting the applicant in pay grade E-3.

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

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

¹ The Board also notes that the applicant served 4 years on active duty in the Marine Corps and presumably another 4 years in the Marine Corps Reserve, which would give him exactly 8 years of prior military service, but there is no evidence that he had served *greater than* 8 years, as required by the memorandum.

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCGR, for correction of his military record is denied.

Francis H. Esposito

Erin J. Greten

Vicki J. Ray