

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-055

FINAL DECISION

ANDREWS, Attorney-Advisor:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on January 27, 1999, upon the BCMR's receipt of the applicant's completed application for correction.

This final decision, dated November 4, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a xxxxxxxxx on active duty in the Coast Guard, asked the Board to correct his military record by canceling a three-year extension contract he signed on November 16, 1998. The correction would entitle him to receive a maximum Selective Reenlistment Bonus (SRB) for a six-year reenlistment contract he signed on January 8, 1999, pursuant to ALDIST 290/98.

APPLICANT'S ALLEGATIONS

The applicant alleged that Coast Guard regulations require that members be counseled concerning the effect of an extension on their future eligibility for an SRB. The applicant alleged that he was not properly counseled before he signed a three-year extension contract on November 16, 1998. Therefore, he did not know that the extension would diminish any SRBs for which he might become eligible during the three years.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on August 4, 199x, for a term of four years, after having served approximately three and one-half years in the Air Force Reserve. On August 11, 1993, he extended his enlistment for two months, through October 3, 199x, to accept orders overseas. On February 13, 1996, the applicant extended his enlistment for two years and ten months, through August 3, 199x, to accept PCS (permanent change of station) orders to xxxxxxxx.

On October 29, 1998, the applicant received PCS orders for xxxxxx. He was to report to his new unit no later than February 1999. The orders stated that, prior to his transfer, the applicant had to obligate himself to serve for a minimum of three years beginning on the date he would report to his new unit. Therefore, on November 16, 1998, the applicant signed a third extension contract, extending his enlistment for two years and six months, through February 3, 200x. There was no SRB available for members in the xxrating who reenlisted or extended their enlistments at this time. The extension contract signed by the applicant, however, states that he was counseled concerning SRBs.

On November 24, 1998, the Commandant issued ALDIST 290/98, which provided a Zone B¹ SRB with a multiple of 1 for members in the xx rating.

On January 8, 1999, prior to his tenth anniversary on active duty, the applicant was discharged and immediately reenlisted for six years, through January 7, 2005. On January 10, 1999, the applicant's PCS orders, for which he signed the extension contract on November 16, 1998, went into effect, and he was transferred from xxx to xxxxxx.

IEWS OF THE COAST GUARD

On September 10, 1999, the Chief Counsel of the Coast Guard recommended that the Board grant partial relief in this case.

The Chief Counsel analyzed the case as follows:

The Board should grant partial relief in this case based on the misapplication of the obligated service requirement (OBLISERV) per Article 4.B.6 of the [Personnel Manual]. The Applicant should have been extended for a term of seven (07) months vice the thirty (30) months reflected on his 16 November 1998 extension agreement. However, the Board should not void this agreement in its entirety

¹ SRBs vary according to the length of each member's active duty service, the length of the period of newly obligated service created by the reenlistment or extension of enlistment, and the need of the Coast Guard for personnel with the member's particular skills. Coast Guard members who have more than 21 months but less than 6 years of active duty service are in "Zone A," while those who have more than 6 but less than 10 years of active duty service are in "Zone B." Members may not receive more than one bonus per zone.

because the Applicant was properly counseled regarding his reenlistment and extension options and the effects those various choices would have on his SRB eligibility when he signed his 16 November 1998 extension agreement. The Applicant has presented no evidence to rebut this presumption.

The Chief Counsel explained that the applicant's PCS orders to xxxxx stated that he was required to have at least three years of obligated service before reporting to his new unit. However, these orders were incorrect. Members, such as the applicant, with more than six years of active duty service are required to have only one full year of obligated service prior to accepting PCS orders. Therefore, the Chief Counsel argued, "based on this administrative error, the Board should grant partial relief" by changing the applicant's extension contract from a term of two years and six months to a term of seven months.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

The BCMR sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond. On October 4, 1999, the applicant responded, stating that he has no objections to the Chief Counsel's recommendation.

APPLICABLE REGULATIONS

Section 2 of Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) provides that "[a]ll personnel with 14 years or less active service who reenlist or extend for any period, however brief, shall be counseled on the SRB program. They shall sign a page 7 service record entry, enclosure (3), outlining the effect that particular action has on their SRB entitlement."

Article 4.B.6.a.2. of the Personnel Manual (COMDTINST M1000.6A) states that members with more than six years of active duty service "are considered to be in a career status. Unless otherwise indicated, they are required to have one year of OBLI-SERV remaining upon reporting to the new unit."

ALDIST 290/98, issued on November 24, 1998, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments after November 25, 1998. The multiple to be used for calculating Zone B SRBs for members in the xx rating was one.

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, United States Code. The application was timely.

2. The evidence indicates that the applicant extended his enlistment for two years and six months on November 16, 1998, because he received PCS orders indicating that he was required to do so before reporting to his new unit.

3. The Coast Guard committed an administrative error when it issued the applicant's PCS orders. Under Article 4.B.6.a.2. of the Personnel Manual, the applicant was only required to have obligated service through one full year (January 10, 1999, through January 9, 2000) at his new unit before accepting the PCS orders.

4. Prior to accepting the PCS orders, the applicant needed to have extended his enlistment for only six months, from August 3, 199x, through February 3, 200x. Because of the Coast Guard's administrative error, the applicant extended his enlistment for two years and six months. Therefore, his Zone B SRB under ALDIST 290/98 has been unjustly reduced by two years.

5. The applicant has proved by a preponderance of the evidence that the Coast Guard erred by requiring him to extend his enlistment for two years and six months instead of for just six months.

6. Accordingly, the applicant's record should be corrected to show that he extended his enlistment on November 16, 1998, for six months rather than two years and six months.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application for correction of the military record of XXXXX, USCG, is hereby granted as follows.

Block 5 of the extension contract signed by the applicant on November 16, 1998, shall be corrected to show that he extended his enlistment for only six months.

Block 7 of the extension contract shall be corrected to show that his enlistment had been extended for a total of three years and six months.

Block 8 of the extension contract shall be corrected to show that the new expiration date of his enlistment was February 3, xxxx.

The Coast Guard shall pay the applicant the amount due him as a result of this correction.

Harold C. Davis, M.D.

John A. Kern

Betsy L. Wolf