

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-059

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 February 5, 1999, upon the BCMR's receipt of the applicant's completed application for correction.

This final decision, dated October 7, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, an xxxxxxx on active duty in the Coast Guard, asked the Board to correct his military record by canceling a four-year reenlistment contract he signed on February 11, 1998, so that he may reenlist and receive a selective reenlistment bonus (SRB).

APPLICANT'S ALLEGATIONS

The applicant alleged that when he reenlisted on February 11, 1998, he was not properly counseled concerning SRBs. He alleged that there is no page 7 in his record documenting the required counseling. He alleged that, if he had been properly counseled, he would not have reenlisted for four years. Instead, he would have extended his enlistment and reenlisted later when an SRB became available. The applicant alleged that he is now eligible for an SRB, although he did not provide a copy of an ALDIST authorizing an SRB for his rating.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on October 16, 199x, for a term of four years. Prior to October 16, 199x, he extended his enlistment for one year, through October 15, 199x. On April 20, 199x, he further extended the enlistment for another three years, through October 15, 199x.

In February 1998, the applicant received permanent change of station (PCS) orders, which were to be executed on June 25, 1998. The orders required the applicant to have obligated service for at least one full year at his new station, through June 24, 1999, or more than eight months past the end of his enlistment, October 15, 199x. However, instead of extending service for the minimum required by the PCS orders (nine months, through July 15, 1999), the applicant apparently reenlisted for four years on February 11, 1998, although no documentation of this reenlistment appears in the paper copy of his military record.

No SRB was in effect for members in the xx rating on that date, and there is no page 7 entry in his record to show that he was properly counseled concerning the effect of this reenlistment on his SRB opportunities.

VIEWS OF THE COAST GUARD

On September 10, 1999, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request.

The Chief Counsel stated that "[a]lthough there is sufficient legal basis to deny relief in this case, the totality of the circumstances indicate that it would be proper for the Board to grant relief in this case by voiding the Applicant's 11 February 1998 reenlistment contract and replacing it with a third extension of ten (10) [sic] months."

The Chief Counsel stated that the Board should grant relief because (1) the four-year reenlistment was not necessary under the applicant's PCS orders and (2) in a telephone conversation with the applicant, he stated that he was willing to sign a new long-term reenlistment as consideration for the SRB.

The Chief Counsel suggested that the Board should ask the applicant "to state his reenlistment or extension intentions for the period after 25 June 1999, the date when his 'new' extension agreement expires. If the Applicant chooses to reenlist for three, four, five or six years, he may qualify to receive an SRB."

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On September 28, 1999, the applicant responded to the views of the Coast Guard. He stated that he wanted the Board to correct his record to show that on February 11,

1998, he extended his enlistment through July 15, 1999, to accept his PCS orders. He also stated that he wished his record to show that, at the end of this extension, on July 15, 1999, he reenlisted for six years for the purpose of receiving an SRB.

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.”

Enclosure (3) to the instruction requires that members sign a page 7 administrative entry indicating that they have received and read Enclosure (5), entitled “SRB Questions and Answers.” Enclosure (5) explains that previously obligated service reduces an applicant’s SRB. It further advises members, “[w]hen coming up on your end of enlistment, carefully consider the advantages/disadvantages of reenlisting vice extending.”

ALDIST 184/99, issued by the Commandant on May 13, 1999, authorized SRBs for members who reenlisted or extended their enlistments after June 15, 1999. An SRB with a multiple of one was authorized for members in the xx rating in Zone B (with more than six years of active duty service).

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 applicant alleged that he was not properly counseled about the effect of his four-year reenlistment on his future eligibility for an SRB. He alleged that the Coast Guard had a duty to counsel him and that had he been properly counseled, he would not have extended his contract through October 15, 2002. Instead, he would have extended his enlistment for only nine months so that he might remain eligible for the maximum possible SRB when one became available for his rating.
3. Under Section 2 of Commandant Instruction 7220.33, the applicant was entitled to proper counseling concerning SRBs. Proper counseling includes the receipt of “SRB Questions and Answers,” which alerts members to the fact that previously obligated service diminishes any SRB for which a member might later become eligible. This counseling must be documented in a page 7 entry in the applicant’s record.
4. There is no page 7 in the applicant’s record documenting SRB counseling at the time of his reenlistment on February 11, 1998. The Coast Guard apparently erred

by failing to counsel the applicant and memorializing that counseling with a page 7 entry.

5. The Chief Counsel stated that, “[a]lthough there is sufficient basis to deny relief in this case, the totality of the circumstances indicate [sic] that it would be proper for the Board to grant relief in this case.” He recommended that the Board correct the applicant’s record to show that he extended his contract by only ten months. The Board notes, however, that to obligate himself to serve at least one full year at his new station, from June 25, 1998, through June 24, 1999, the applicant would have had to extend his enlistment for only nine months, from October 16, 1998, through July 15, 1999.

6. The preponderance of the evidence indicates that the applicant was not properly counseled concerning SRBs when he reenlisted for four years on February 11, 1998. If the applicant had been properly counseled, he would have extended his enlistment for nine months, from October 16, 1998, through July 15, 1999, to accept his PCS orders. The evidence further indicates that, upon the end of this extension, the applicant would have reenlisted for six years and received a Zone B SRB with a multiple of one under ALDIST 184/99.

7. Accordingly, the applicant’s request should be granted.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application for correction of the military record of XXXXXXXXXX, USCG, is hereby granted.

The applicant's record shall be corrected to show that on February 11, 1998, he extended his enlistment for nine months, from October 16, 1998, through July 15, 1999.

The applicant's record shall further be corrected to show that on July 15, 1999, the applicant reenlisted for a term of six years for the purpose of receiving an SRB.

The four-year reenlistment contract signed by the applicant on February 11, 1998, shall be null and void.

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

Angel Collaku

Gareth W. Rosenau

Sharon Y. Vaughn