

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2002-027

FINAL DECISION

ANDREWS, Deputy Chair:

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 18, 2002, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated September 26, 2002, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant asked the Board to correct his military record to show that he reenlisted on February 26, 1999, instead of signing a three-year extension of enlistment contract on June 29, 1999. The correction would entitle him to receive a Zone A selective reenlistment bonus (SRB)¹ pursuant to ALDIST 290/98.

APPLICANT'S ALLEGATIONS

The applicant alleged that on February 26, 1999, when he needed to obligate additional service to accept transfer orders, his command erroneously counseled him that he was not eligible for an SRB under the provisions ALDIST 184/99. He alleged that his command should have counseled him that he was eligible for an SRB calculated with a multiple of one under ALDIST 290/98.

¹ SRBs vary according to the length of each member's active duty service, the length of the period of 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 served less than 6 years on active duty are in "Zone A." Members may only receive one SRB per zone.

In support of his allegations, the applicant submitted a letter apparently signed by a chief warrant officer serving as the chief of the Personnel Services Division at the Integrated Support Command in xxxxxxxxxxxx, who stated the following:

1. On 26 February 1999, [the applicant] was counseled with ALDIST 184/99 as having no SRB. ALDIST 184/99 had not been released until 13 May 1999. Member should have been counseled based on ALDIST 290/98 which states member entitled to Zone A SRB with a multiple of one. On 29 June 1999 [the applicant] extended his enlistment to meet obligated service incident to PCS transfer for 2 years and 5 months. Due to improper SRB counseling this member was not provided the opportunity to reenlist to claim SRB in accordance with ALDIST 290/98 which expired on 14 June 99. Member wishes to reenlist for a period of 5 years as of 26 February 1999 to claim SRB. ...
2. Highly recommend favorable consideration be give to [his] request for correction of reenlistment date.

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.”

ALDIST 290/98 was issued on November 25, 1998, and became effective immediately. It established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments for at least three years. The multiple to be used for calculating SRBs for members in the DC rating in Zone A was one.

ALDIST 184/99 was issued on May 13, 1999. It provided that the SRB multiples authorized under ALDIST 290/98 were in effect only through June 14, 1999, and it established new multiples to go into effect on June 15, 1999. The multiple to be used for calculating Zone A SRBs for members in the DC rating who reenlisted or extended their enlistments after June 15, 1999, was one-half.

SUMMARY OF THE RECORD

On April 8, 1997, the applicant enlisted in the Coast Guard for a term of four years, through April 7, 2001. On June 29, 1999, he signed an extension contract obligating himself to an additional two years and five months, through September 7, 2003, so that he would have sufficient obligated service to accept transfer orders and perform a full four-year tour of duty at his next post. On the contract, he acknowledged having reviewed ALDIST 184/99 and the SRB Instruction. The contract indicates that he was not entitled to an SRB for his extension.

The applicant's record contains an administrative entry ("page 7") dated June 21, 1999, which states that he was advised that under ALDIST 184/99, there was no SRB multiple in effect for his rating. The applicant's record also contains a page 7 dated February 26, 1999, which states that he was advised that under ALDIST 184/99, there was no SRB multiple in effect for his rating. On both page 7s, he acknowledged having reviewed ALDIST 184/99 and the SRB Instruction.

VIEWS OF THE COAST GUARD

On May 23, 2002, the Chief Counsel of the Coast Guard recommended that the Board deny the applicant's request.

The Chief Counsel stated that "the Board should deny relief based on Applicant[s] sworn statement alleging he was counseled in February 1999 with a message released in May 1999. He stated that the applicant's sworn statement "is not credible as it involves an impossibility." He explained that ALDIST 184/99 did not exist in February 1999 and that, because ALDISTs are numbered sequentially in the order they are released, it was impossible in February 1999 to know that the next ALDIST concerning SRBs would have the number 184/99. In fact, the Chief Counsel stated that no one could know what number the next SRB ALDIST would have until the day it was issued, May 13, 1999.

The Chief Counsel further stated that sometime prior to June 29, 1999, the applicant received transfer orders. To accept them, he had to have at least four years of obligated service to complete a full tour at his new unit. Therefore, he extended his contract for two years and five months, which was the minimum amount of time necessary to accept the orders. The Chief Counsel stated that this extension did not entitle the applicant to an SRB because it was not at least three years long. He stated that the applicant's command likely completed the extension contract to show that he was not entitled to an SRB because he was not obligating sufficient service to qualify for one. If the applicant had extended his enlistment or reenlisted for at least three years on June 29, 1999, he would have received the SRB authorized under ALDIST 184/99.

The Chief Counsel also pointed out that the applicant did not apply for relief until more than two and one-half years since the alleged error had passed. He argued that given "the lack of credibility afforded his statements and the lengthy delay in making application, the Board should properly find that Applicant's treatment in the instant case does not constitute an injustice."

Finally, the Chief Counsel stated that the applicant did not make any allegations with respect to his SRB counseling on June 21, 1999, and that if the applicant did make such allegations in his response to the advisory opinion, the Coast Guard would want an opportunity to respond.

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On May 28, 2002, the BCMR sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond. 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.

2. The applicant alleged that on February 26, 1999, he was erroneously counseled about his SRB eligibility under ALDIST 184/99, which was not even issued until May 13, 1999. A page 7 in his record and a statement from his new command seem to support his allegation. However, the Board finds that the applicant's allegation is not credible and that the page 7 in his record is misleading and not reliable. As the Chief Counsel stated, it would have been impossible for anyone to know on February 26, 1999, the number or contents of the next SRB ALDIST.

3. The applicant's record also contains a page 7 dated June 21, 1999, which erroneously indicates that no SRB was authorized for his rating under ALDIST 184/99. In fact, ALDIST 184/99 authorized an SRB with a multiple of one-half for the applicant's rating, and if he had reenlisted or extended for at least three years, he would have received it. However, the applicant twice acknowledged having reviewed ALDIST 184/99, which clearly shows that the multiple for this rating was one-half. Moreover, in light of the misleading page 7 dated February 26, 1999, in the applicant's record, the Board does not trust the validity of the page 7 dated June 21, 1999. Therefore, the Board finds that the page 7 dated June 21, 1999, does not prove that he was miscounseled regarding his eligibility for an SRB in June 1999.

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

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is denied.

L. L. Sutter

Nilza F. Velazquez

Blane A. Workie