

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2005-130

XXXX XXXXXX.
Xxx xx xxxx, BM2

FINAL DECISION

Author: Hale, D.

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 was docketed the case on June 29, 2005, upon receipt of the applicant's completed application.

This final decision, dated April 5, 2006, is 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, a boatswain's mate second class (BM2), asked the Board to correct the term of an extension contract that he signed on July 23, 2003, from 25 months to 24 months. This correction would allow him to cancel that extension contract before its operative date and reenlist for a selective reenlistment bonus (SRB)¹ based on six years of newly obligated service.²

¹ SRBs allow the Coast Guard to offer a reenlistment incentive to members who possess highly desired skills at certain points during their career. SRBs vary according to the length of each member's active duty service, the number of months of service newly obligated by the reenlistment or extension of enlistment contract, and the need of the Coast Guard for personnel with the member's particular skills, which is reflected in the "multiple" of the SRB authorized for the member's skill/rating, which is published in an ALCOAST. Coast Guard members who have at least 21 months but no more 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 SRB per zone. Personnel Manual, Article 3.C. and 3.C.4.a.

² Obligated service refers to all periods of military service covered by signed agreements in the form of enlistment contracts, reenlistment contracts and/or agreements to extend enlistment between Coast Guard members and the U.S. Coast Guard where members agree to serve for designated periods of time. Personnel Manual, Article 3.C.2.

The applicant alleged that he reported to his new unit, Aids To Navigation (ANT) Astoria, on July 1, 2003, and was told shortly thereafter that he was required to sign an extension contract to obligate sufficient service to complete a four-year tour. The applicant signed a 25-month extension contract on July 23, 2003, to obligate sufficient service to complete the four-year tour. He further alleged that when he attempted to cancel the contract and reenlist for an SRB on June 21, 2005, he learned that his SRB would be reduced by the number of months previously obligated by the July 2003 extension, because only extensions of two years or less can be canceled without negatively affecting SRB entitlement. The applicant alleged that he was improperly counseled that he had to extend his enlistment for 25 months to satisfy obligated service requirements, when in fact he was only required to extend his enlistment for 24 months.

SUMMARY OF THE RECORD

On June 25, 2001, the applicant enlisted in the Coast Guard for a term of four years, through June 24, 2005. In the summer of 2003, the applicant received transfer orders to Astoria where a full tour of duty was four years. The applicant accepted the transfer orders and was transferred to Astoria on July 1, 2003, without sufficient service remaining on his enlistment to complete a four-year tour.

On July 23, 2003, approximately three weeks after arriving at Astoria, the applicant signed a 25-month extension contract to obligate sufficient service to complete the four-year tour. The contract extended his enlistment from June 25, 2005, through July 24, 2007. There is no page 7³ in his record documenting SRB counseling when he signed the contract. However, the extension contract itself contains two paragraphs regarding the applicant's SRB eligibility (he was then ineligible) and SRB entitlement. By signing this contract, the applicant acknowledged having (1) received a copy of "SRB Questions and Answers" based on the Commandant's SRB Instruction; (2) understood the effect of his extension on his future SRB eligibility; (3) had the opportunity to read the SRB Instruction; and (4) had all his questions about his SRB entitlement answered.

On June 13, 2005, the applicant signed a page 7 that advised him that he was eligible to reenlist for an SRB and that it would be computed based on 47 months of newly obligated service.

On June 21, 2005, the applicant canceled his 25-month extension contract, reenlisted for six years, and became eligible for an SRB pursuant to ALCOAST 306/04. Under Article 3.C.5.6. of the Personnel Manual, the applicant's July 2003 extension reduced the amount of additional obligated service for which he could be credited upon his reenlistment from 72 months to 47 months.

³ A CG-3307 (Administrative Remarks, or Page 7) entry documents any counseling that is provided to a service member as well as any other noteworthy events that occur during that member's military career.

VIEWS OF THE COAST GUARD

On November 15, 2005, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended granting relief. He stated that the applicant was improperly counseled on obligated service requirements and that pursuant to Chapter 1.G.16.b. of the Coast Guard Personnel Manual, 24 months was the maximum number of months for which he could extend because he was on his first term with the Coast Guard and only needed 24 months to complete his next tour.

RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 17, 2005, the Chair sent the applicant a copy of the JAG's advisory opinion and invited him to respond. On November 22, 2005, the Board received the applicant's response in which he agreed with the JAG's recommendation.

APPLICABLE LAW

Article 1.G.16.b. of the Coast Guard Personnel Manual states that the term of enlistment for first term personnel may only be extended for the minimum period required to attend a resident or other schools or for duty inside or outside CONUS.

Article 4.B.6.a. of the Personnel Manual states that Assignment Officers will normally not transfer service members E-4 and above with fewer than six years of active duty unless they reenlist or extend to have enough obligated service for a full tour upon reporting to a new unit.

Article 3.C.5.6. of the Personnel Manual states that extensions may be canceled prior to their operative dates for the purpose of extending or reenlisting for a longer term to earn an SRB. However, such extensions reduce the SRB by the number of months of previously obligated service unless the extension is for a period of two years or less, in which case the SRB is not diminished.

ALCOAST 306/04 was issued on June 21, 2004, and was in effect from August 1, 2004, through July 31, 2005. Under ALCOAST 306/04, BM2s were eligible for an SRB calculated with a multiple of 2.0.

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 submission, 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 he was erroneously required to extend his enlistment for 25 months to obligate sufficient service to complete a four-year tour at ANT Astoria. When he received transfer orders in June 2003, the applicant should have been required to obligate sufficient service to complete a full tour of duty (four years) before accepting the orders.⁴ Since his report date was July 1, 2003, he was required, by or before that date, to have obligated service through June 30, 2007. However, the applicant's command did not require him to obligate service before allowing him to transfer to his new unit. Upon arrival on July 1, 2003, the applicant's end of enlistment (EOE) date was June 24, 2005, and since Astoria is a four-year tour, he should have been required to obligate service through July 24, 2007 (25 months).⁵ The applicant's and JAG's allegations that he needed only a 24-month extension to obligate service for a complete 4-year tour is clearly wrong.

3. If the applicant had been properly counseled in June 2003, he would have been told that, under Article 4.B.6.a.2. of the Personnel Manual, before accepting his transfer orders and reporting to his new unit on July 1, 2003, he had to obligate sufficient service — 25 more months — to complete a full four-year tour. In addition, he should have been advised that because the extension contract he would have to sign to accept the tour at Astoria was for more than two years' duration, under Article 3.C.5.6 of Personnel Manual, he could not cancel it before it became operative to receive an SRB without having his SRB reduced by his remaining obligated service.

4. However, when the applicant signed the extension contract on July 23, 2003, there was no longer authority under the Personnel Manual for him to sign the contract: he had already completed the transfer to Astoria, he was not in receipt of orders to transfer again or to attend school, and he was not within 90 days of his EOE date. By July 23, 2003, the Government had already incurred the costs of the applicant's transfer without requiring, as surety, his agreement to serve a full tour at his new unit. Although the applicant should have been required to obligate service prior to accepting his transfer orders, he was not required to correct the Coast Guard's error by extending his enlistment nearly one month *after* he was transferred to Astoria.

5. In light of the fact that the applicant had already been transferred and was not authorized to sign an extension contract on July 23, 2003, the Board finds that his July 23, 2003, extension contract should be null and void. This correction will maximize the SRB he is owed for his June 21, 2005, reenlistment.

6. Accordingly, relief should be granted.

⁴ Personnel Manual, Article 4.B.6.

⁵ Coast Guard personnel may extend their enlistments for any number of full years and/or full months up to six years for INCONUS assignments. Personnel Manual, Article 1.G.15.a.

ORDER

The application of BM2 XXXXX XXXXXX, xxx xx xxxx, USCG, for correction of his military record is granted. The Coast Guard shall remove the July 23, 2003, extension contract from his records as null and void (as opposed to merely canceling the contract) and pay him any amount due for his June 21, 2005, reenlistment pursuant to ALCOAST 306/04 as a result of this correction.

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