


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

Application for Correction of
Coast Guard Record of:

BCMR Docket No. 1998-085 /FC

ORDER UPON FURTHER CONSIDERATION


This is a further proceeding under sections 52.32(b) and 52.32(c) of the rules of the BCMR, pursuant to section 1552 of title 10, United States Code.

Subsection (b) provides that denial of relief is without prejudice to further consideration "if the applicant requests further consideration and submits evidence in addition to that contained in his or her complete application."

Subsection (c) provides that if relief is denied under this section, "without prejudice to further consideration," the applicant shall be advised of his right to further proceedings.

The final decision, dated June 10, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

EVIDENCE

On April 22, 1999, the Board considered Docket No. 1998-085 and found that the applicant was not properly counseled regarding his SRB. Findings No. 1 and No. 4. The Board found that the Coast Guard alleged that it counseled the applicant, but it submitted no evidence that it did so. Finding No. 5.

On March 12, 1998, the CO (commanding officer) told the head of CGPC (Coast Guard Personnel Command) that the "applicant was not properly counseled regarding [SRB] policy."

FURTHER EVIDENCE NEEDED

The Board concluded that the applicant is entitled to an SRB on the ground of improper or insufficient counseling. Although the Board found that the applicant was entitled to an SRB, the applicant failed to indicate for how long a period he would have reenlisted had he been properly counseled.

The Board concluded that it is authorized under sections 52.32 (b) and 52.32(c) to engage in further consideration "without prejudice" if the applicant submits additional evidence and requests further consideration. It must be done under "this section," which is to say under the substantive provisions of section 52.32, denial of relief.

ORDER

Finding No. 6 of the Order in Docket No. 1998-085 reads as follows:

6. The applicant is entitled to an SRB, but he has failed to indicate for how long a period he would have reenlisted had he been properly counseled. If, within 60 days, the applicant submits such information, the Board will reconsider his request.

The Board determined that applicant could not grant an SRB to the applicant, but it could not do so because it lacked basic information.

FURTHER SUBMISSIONS OF APPLICANT

On May 20, 1999 (within the 60-day period for further submissions set by the Board), the applicant sent the following memo to the BCMR: "I apologize for not including the length of time I wished to reenlist . . . I would like for it to be 6 years."

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and the Coast Guard, the military record of the applicant, and applicable law:

1. The Board has jurisdiction of the case pursuant to section 1552 of title 10, United States Code.

2. The application was timely.

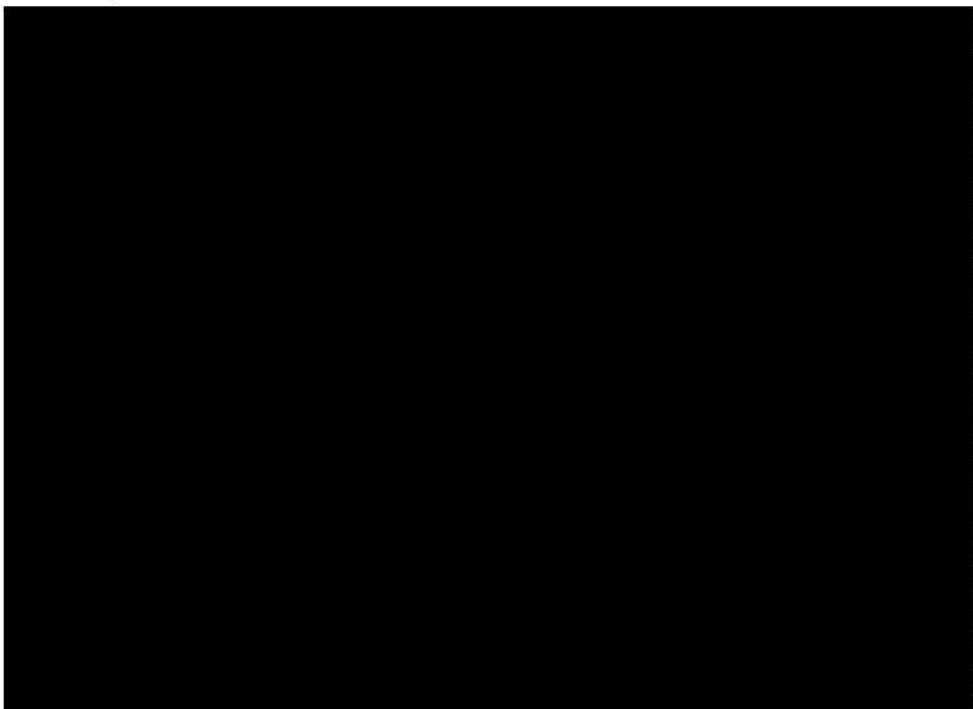
3. The applicant was not properly counseled, but he did not tell the Board how long he would have reenlisted had he been properly counseled.

4. Upon further consideration of additional submissions, it has been established by a preponderance of the evidence that the applicant would have reenlisted for an additional 6 years if he had been properly counseled.

[SUPPLEMENTAL ORDER AND SIGNATURES ON FOLLOWING PAGE]

SUPPLEMENTAL ORDER

The application to correct the military record of . . . ,
USCG, is granted, as follows: The Coast Guard shall correct the applicant's
record to show that on his 6th anniversary date (October 22, 1997), he reenlisted for a
period of 6 years for the purpose of obtaining an SRB.




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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1998-085

FINAL DECISION

 This is a proceeding under the provisions of section 1552 of title 10 and under the provisions of section 425 of title 14 , United States Code. It was commenced on May 29, 1998, upon the BCMR's receipt of the applicant's request for correction of his military record.

The final decision, dated April 22, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S ALLEGATIONS

In October 1997, the applicant alleged that he was "not properly counselled regarding his SRB [selective reenlistment bonus] eligibility."

The applicant alleged that he should have been discharged and renewed on his six year anniversary (10/22/97) to obtain an SRB. According to ALDIST 226/97, he could have taken advantage of a Zone A SRB with a multiple of 1.

SUMMARY OF THE RECORD

On June 27, 1991, the applicant enlisted in the Coast Guard for four years. On June 14, 1995, the applicant extended his enlistment for 3 years, until October 21, 1998. On April 9, 1997, the applicant signed a CG 3301B to extend his enlistment for 1 year and 8 months. His new expiration of enlistment was June 21, "00."

On March 12, 1998, the applicant's Commanding Officer (CO) wrote the Commander of the Coast Guard Personnel Command (CGPC) confirming the October 1977 allegation of the applicant. The CO alleged that the applicant "was not properly counseled regarding [SRB] policy."

According to the CO, "[a]s a result of this administrative error, the applicant was erroneously withheld the payment of an SRB."

VIEWS OF THE COAST GUARD

On March 12, 1998, the applicant's commanding officer notified the head of CGPC that the applicant had not been properly counseled regarding Coast Guard SRB policy.

The applicant signed an agreement (CG Form 3301B) on June 14, 1995 and a similar one on April 9, 1997. The CG 3301 is termed an Agreement to Extend/Reextend Enlistment, and it provides instructions on eligibility etc. for obtaining SRBs.

On March 11, 1999, the Chief Counsel of the Coast Guard, recommended that relief be denied to the applicant. The Chief Counsel quoted from CG-3301B that "I . . . have had all my questions answered" and implied that the right to ask questions constituted counseling, whether or not questions were asked and answered accurately.

On March 10, 1998, the applicant signed a DD Form 149 alleging a "lack of proper counseling" with respect to SRB eligibility. On March 12, 1998, his CO concluded that the applicant "was not properly counselled" regarding SRB policy. The Chief Counsel did not disagree with the finding that the applicant was "not properly counseled" regarding the Coast Guard's SRB policy.

APPLICANT'S RESPONSE TO THE COAST GUARD VIEWS

On March 19, 1999, the Board received a response from the applicant to the views of Coast Guard officers. The applicant said this case "is ready for decision."

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and the Coast Guard and on the basis of the applicant's military record 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 entitled to receive a Zone A SRB, as of October 1977 (multiple of 1), but he was not properly counseled regarding his SRB eligibility.
3. On June 14, 1995 and April 9, 1997, the applicant signed agreements to

extend his enlistment. The Coast Guard implied that the applicant is bound by any information or counseling that the authorizing official could have imparted. The applicant said he has "had all [his] questions answered."

4 The Board finds that the applicant was not properly counseled with regard to his SRB entitlement.

5. The Chief Counsel alleged that the "Applicant was counseled" (advisory opinion), but no evidence was submitted to support that allegation.

6. The applicant is entitled to an SRB, but he has failed to indicate for how long a period he would have reenlisted had he been properly counseled. If, within 60 days, the applicant submits such information, the Board will reconsider his request.

ORDER

The application to correct the military record of former
---, USCG, shall be granted, provided the applicant submits
information concerning the length of the requested reenlistment within 60 days
after the date of this final decision.

