

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-040

FINAL DECISION

[REDACTED]

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 6, 1999, after the Board received the applicant's complete application.

This final decision, dated September 23, 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 machinery technician first class (MK1; pay grade E-5) on active duty in the Coast Guard, asked the Board to correct his military record to show that on September 21, 1998, he was discharged and reenlisted for six years (instead of the six-year extension contract he actually signed). The correction would allow the applicant to receive a Selective Reenlistment Bonus (SRB).

APPLICANT'S ALLEGATIONS

The applicant alleged that prior to his sixth anniversary on active duty, his command counseled him that he could receive an SRB by extending his enlistment by up to six years. He was advised that under ALDIST 046/98, he would receive a Zone A SRB with a multiple of one. The applicant alleged that he extended his contract for six years to receive the SRB. However, the Coast Guard Human Resource Information Center thereafter informed his command that the applicant was eligible for the SRB only if he was discharged and reenlisted prior to his sixth anniversary. The Center advised the command that the applicant should ask the BCMR to correct his record to show that he was discharged and reenlisted.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on May 12, 1986, for four years. He extended this contract for six months, through November 11, 1990. On that day, he left the service with an honorable discharge.

On March 22, 1997, the applicant reenlisted for four years. Therefore, his sixth anniversary on active duty fell on September 22, 1998. On September 21, 1998, the applicant signed a contract extending his enlistment for six years. The contract shows that he was told he would receive an SRB with a multiple of one under ALDIST 046/98.

On March 29, 1998, the Commandant of the Coast Guard issued ALDIST 046/98, which allowed members to receive an SRB if they reenlisted or extended their current enlistments between April 1, 1998 and September 30, 1998. ALDIST 046/98 provided that members in the MK rating who extended their enlistments or reenlisted would receive an SRB calculated with a multiple of one.

On December 7, 1998, the applicant's commanding officer wrote a letter to the Chairman of the BCMR stating that the applicant had been wrongly advised that he could receive an SRB by extending his contract, rather than reenlisting.

VIEWS OF THE COAST GUARD

On September 7, 1999, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request.

The Chief Counsel stated that the applicant should be granted relief because he was eligible to receive the SRB and clearly desired to commit himself to an additional six years of service. The Chief Counsel also stated that the applicant is an outstanding performer who "took appropriate action to rectify the alleged error after its discovery." The Chief Counsel explained that the applicant's "Commanding Officer did not have authority to first discharge the Applicant and then extend him on 21 September 1998."

APPLICABLE REGULATIONS

Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration), Section 2 states 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."

Section 3.d.(1) of Enclosure (1) states that "[m]embers with exactly 6 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone A multiple in effect for their rating if they are otherwise eligible."

Section 3.d.(9) of Enclosure (1) states that "[c]ommanding officers are authorized to effect early discharge and reenlist members within 3 months prior to their 6th, 10th, or 14th year active service anniversary dates (not to be confused with the normal expiration of enlistment), for the purpose of qualifying for a Zone A, B, or C SRB respectively. In such cases, SRB payments will be reduced by any portion of unserved service obligation."

Enclosure (3) to the instruction states that during the three months prior to the end of an enlistment, each member must be counseled concerning his or her eligibility for an SRB, have his or her questions concerning SRBs answered, and be provided with a copy of Enclosure (5), which is entitled "SRB Questions and Answers." The counseling must be memorialized in the member's record with a Form CG-3307 signed by the member.

ALDIST 046/98, issued on March 29, 1998, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments between April 1, 1998, and September 30, 1998. The multiple to be used for calculating SRBs for members in the MK 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 applicant was improperly counseled that he could receive a Zone A SRB if he extended his enlistment prior to his sixth active duty anniversary date. Therefore, he extended his enlistment for six years on September 21, 1999. However, according to the Chief Counsel, the applicant's commanding officer did not have authority to do this. Thus, the applicant was denied an SRB.
3. The Chief Counsel recommended that the Board grant relief because the applicant is an outstanding performer and because he acted promptly in seeking correction of the error.
4. Under Sections 3.d.(1) and 3.d.(9) of Enclosure (1) to the instruction, the applicant was eligible to be discharged on September 21, 1998, within three months of the sixth anniversary of his enlistment, in order to reenlist. Under ALDIST 046/98, he would have received a Zone A SRB with a multiple of one.
5. The Coast Guard erred by advising the applicant to extend his contract in lieu of reenlisting prior to his sixth active duty anniversary date. Had he been properly

counseled, the applicant would have been discharged and reenlisted on September 21, 1998.

6. Therefore, the applicant's request should be granted.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

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

His record shall be corrected to show that on September 21, 1998, he was discharged and reenlisted for a term of six years. The six-year extension contract he signed on September 21, 1998, shall be null and void.

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

