


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-048

FINAL DECISION

 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 13, 1999, after the Board received the applicant's complete application.

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, a xxxxxxxxxxx on active duty in the Coast Guard, asked the Board to correct his military record to show that he was discharged and reenlisted on November 3, 1998, the sixth anniversary of the day he began active duty. The applicant did not indicate for how long he wished to reenlist, but a reenlistment of three or more years would qualify him for a selective reenlistment bonus (SRB) under ALDIST 206/98.

APPLICANT'S ALLEGATIONS

The applicant alleged that his command failed to counsel him within the three months prior to his sixth anniversary on active duty that he could receive an SRB by reenlisting. He alleged that the Coast Guard had a duty to counsel him about ALDIST 206/98 and to document that counseling in his record with a page 7 entry. He alleged that there was no such page 7 entry in his record.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on November 3, 1992, for four years. On September 6, 1996, he was discharged and reenlisted for another four years. Therefore, his six-year active duty anniversary date was November 3, 1998.

On August 31, 1998, the Commandant of the Coast Guard issued ALDIST 206/98, which allowed members to receive an SRB if they reenlisted or extended their current enlistments after October 1, 1998. ALDIST 206/98 provided that members in the xx rating who extended their enlistments or reenlisted would receive an SRB calculated with a multiple of two.

There is no page 7 entry in the applicant's record indicating that he was counseled concerning SRBs during the three months prior to his sixth anniversary on active duty.

VIEWS OF THE COAST GUARD

On September 7, 1999, the Chief Counsel of the Coast Guard recommended that the Board grant relief in this case.

The Chief Counsel stated that the applicant should be granted relief because he "took prompt action to rectify the alleged error after its discovery and is now willing to offer a new reenlistment as consideration for the SRB he requests." The Chief Counsel stated that the Board should ask the applicant for how long he wishes to reenlist since he did not reveal this in his application. The Chief Counsel also stated that the applicant's previously obligated service, through September 5, 2000, would reduce the total amount of obligated time upon which the applicant's SRB would be calculated.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 9, 1999, the Chairman sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond within 15 days. On September 21, 1999, the applicant responded. He agreed with the Coast Guard's views and stated that he wished to be reenlisted for six years.

APPLICABLE REGULATIONS

Section 3.d.(1) of Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) 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 (page 7 entry) signed by the member.

ALDIST 206/98, issued on August 31, 1998, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments after October 1, 1998. The multiple to be used for calculating SRBs for members in the xx rating was two.

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 never counseled during the three months prior to his sixth anniversary on active duty concerning his opportunity to receive a Zone A SRB under ALDIST 206/98. He alleged that, had he been properly counseled, he would have reenlisted for six years to receive the SRB.
3. Under Sections 3.d.(1) and 3.d.(9) of Enclosure (1) to Commandant Instruction 7220.33, the applicant was eligible to be discharged and reenlisted on November 3, 1998, his sixth active duty anniversary, to receive a Zone A SRB.
4. Under Enclosure (3) to Commandant Instruction 7220.33, the applicant had a right to be counseled concerning SRBs within the three months prior to his sixth anniversary on active duty. There is no evidence that the Coast Guard counseled the applicant concerning his eligibility for an SRB during those three months. Had he been so counseled, a Form CG-3307 should appear in his record, but there is none.

5. The Coast Guard failed to counsel the applicant that he could receive a Zone A SRB under ALDIST 206/98 if he reenlisted during the three months prior to November 3, 1998, his sixth active duty anniversary. If the Coast Guard had properly counseled the applicant, he would have reenlisted for six years to receive the SRB.

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

ORDER

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

His record shall be corrected to show that on November 3, 1998, the applicant was discharged and immediately reenlisted for a term of six years, through November 2, 2004, for the purpose of receiving a Zone A SRB.

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

