

DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS


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Application for Correction  
of Coast Guard Record of:

BCMR Docket  
No. 1999-053

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FINAL DECISION

  
This is a proceeding under the provisions of § 1552 of title 10 and § 425 of title 14, United States Code. It was commenced on January 15, 1999, upon the BCMR's receipt of the applicant's request for correction of his military record.

The 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 boatswain's mate second class (BM2), alleged that he was mistakenly not permitted to reenlist for the purpose of receiving a selective reenlistment bonus (SRB) on his 10th anniversary active duty date because his command was confused about the date of his 10<sup>th</sup> anniversary. He enclosed in his application the text of ALDIST 290/98, which listed, inter alia, the SRB zones and multiples that became effective on November 25, 1998.

The applicant submitted a statement by a BM1, who said that on November 30, 1998, the applicant approached him wanting to cancel his extension and reenlist for 6 years for an SRB under ALDIST 290/98. The BM1 stated that he told the applicant he was "not eligible [for an SRB] as of 10 months ago" because his 10<sup>th</sup> anniversary had passed. The applicant responded that "he had an 11 months break-in service" which made him eligible. The applicant kept insisting that this position was supported by the SRB Instruction, COMDTINST 7220.33.

The BM1 stated that, in the process of asking for an eligibility opinion, he told the PERSRU that "Dec. 5<sup>th</sup> would be 10 years." Therefore, he was told that the applicant was not eligible for the SRB offered by ALDIST 290/98 because he had passed his 10th year anniversary date. On December 15, 1998, however, a personnel officer in Group

Mayport told him that the applicant's 10th year anniversary date "was in December of 98" but that he would have to apply to the BCMR "since its now past the 10 year period."

According to the Chief Counsel of the Coast Guard, the applicant's 10-year "service anniversary date was December 5, 1999." According to a staff member of the Board, the applicant's 10 year active duty anniversary date was December 8, 1998.<sup>1</sup>

### STATUS

The applicant originally enlisted in the Coast Guard (CG) for 4 years starting January 11, 1988. He served in the active duty CG from January 11, 1988 until January 9, 1992. On January 9, 1992, he was released from active duty and transferred to the inactive duty Coast Guard Reserve. He served in the Reserve for the next 11 months. On December 7, 1992, he reenlisted in the active duty CG for 4 years with an EOE of December 6, 1996. In 1996, the applicant extended his enlistment for 4 years.

### APPLICABLE ALDIST AND REGULATIONS

The applicant enclosed with his application a copy of ALDIST 290/98. It was issued in part to raise multiples as a result of "new data" indicating lower Coast Guard reenlistment rates.

The SRB zones and multiples listed in this ALDIST became "effective on November 25, 1998." Paragraph 3 states that the multiple for the applicant's rating (BM) is one, and paragraph 5 says that the bonus amounts range from approximately "\$2,500 to \$35,000." Paragraph 8 notes that there has been an increase in complaints of errors regarding proper SRB counseling.

### COMDTINST 7220.33

Section 2. of Enclosure (1): "WRITTEN AGREEMENTS. All 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 record entry, enclosure (3), outlining the effect that particular action has on their SRB entitlement. . . ."

Enclosure (3). "(Required page 7 entry for personnel within 3 months prior to their 6th, 10th, or 14th active duty anniversary date.)"

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<sup>1</sup> The applicant's 10th year active duty anniversary date is calculated as follows: January 11, 1988 - January 9, 1992 = 3 years, 11 months, 29 days of active duty. He needed 6 years and 1 day to finish 10 full years. December 7, 1992 - December 7, 1998 = 6 years, 1 day of active duty. The next day (December 8, 1998) was his 10th anniversary date.

The required form consists of 6 paragraphs. Paragraph 5 reads as follows: "I must reenlist on or 3 months prior to (date), which is my (6th/10th/14th) active duty anniversary date, in order to receive a Zone (A, B, or C) SRB."

On September 26, 1996, the applicant signed a Form CG-3301B attesting to the fact that he has been given the chance to review COMDTINST 7220.33 concerning his SRB eligibility and he had all his questions answered. The applicant did not later sign another such form.

### PERFORMANCE OF APPLICANT

On March 31, 1995, December 28, 1994, and August 1, 1994, the applicant received page 7 entries reporting that he had received marks of "7" (highest mark possible) in professional qualities, performance, leadership, and stamina. The Chief Counsel of the Coast Guard characterized him as being "a solid performer."

### VIEWS OF THE COAST GUARD

On September 2, 1999, the Chief Counsel of the Coast Guard issued an advisory opinion in which he recommended that the Board grant relief in this case by correcting the applicant's record to show a 6-year reenlistment dated December 5, 1998.

The applicant took appropriate action to enlist on or before his 10th anniversary year, but he was incorrectly advised that he could not because he was beyond his 10th anniversary year. He was told therefore that he was not eligible to be discharged and reenlisted on December 5, 1998.

That was wrong. The Chief Counsel said that the applicant had indicated his desire to reenlist for 6 years on November 30, 1998, 6 days before his anniversary date, according to the Chief Counsel's calculation. (It was 9 days before the anniversary date, according to the Board's staff member's calculation.) Accordingly, the Chief Counsel concluded that the Board should grant the applicant the relief requested.

The Chief Counsel was fortified in his conclusion by the fact that the applicant took prompt action to rectify the error and is willing to give an additional 6 years of service obligation as consideration for the relief requested.

### 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 concerning this matter pursuant to section 1552 of title 10, United States Code. The application was timely.

2. The applicant was entitled to an SRB if he reenlisted on or 3 months prior to his 10th year active duty anniversary date. He served almost 4 years on an enlistment starting 1/11/88; 4 years on a reenlistment starting 12/7/92; and two years of an extension starting 12/7/96. The applicant's 10 year active duty anniversary date fell between December 5 and December 8, 1998.

3. The applicant was entitled to be correctly "counseled on the SRB program." Enclosure (1), Section 2, COMDTINST 7220.33.

4. The applicant tried to reenlist on November 30, 1998, the week before his 10<sup>th</sup> active duty anniversary. The applicant's command, however, did not reenlist him due to confusion about the date of his 10th anniversary. Before they reached a consensus as to the date, the applicant's 10<sup>th</sup> anniversary had passed.

5. Enclosure (3) of COMDTINST 7220.33 requires the Coast Guard to counsel members properly regarding their eligibility for an SRB within the three months prior to their 6th, 10th, and 14th anniversary dates and to document that counseling with a page 7 entry. There is no such entry in the applicant's record.

6. Had the applicant been allowed to reenlist by his 10th anniversary date for the SRB, he would have done so. Had his command known when the anniversary date was, they would have counseled him to act by that date.

7. The applicant has shown that the Coast Guard committed an error by not properly counseling him with respect to his 10th anniversary date and eligibility for an SRB, as required by Coast Guard regulations.

8. It would be an injustice to fail to grant the requested relief to a member who is a solid performer who took prompt action to correct the error and who is willing to serve additional obligated time as consideration for the requested SRB.

9. Accordingly, the application should be granted as set forth in the order.

**[ORDER AND SIGNATURES ON FOLLOWING PAGE]**

**ORDER**

The application to correct the military record of  
..., USCG, is granted, as follows:

The applicant's record shall be corrected to show that he was discharged and immediately reenlisted for six years on December 5, 1998, for the purpose of obtaining a Zone B SRB. The Coast Guard shall pay the applicant any sums due as a result of this correction.

