

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1999-061

FINAL DECISION

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was docketed on February 10, 1999, upon the BCMR's receipt of the applicant's complete application for correction of his military record.

This final decision, dated December 9, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a chief health services technician (HSC; pay grade E-7) asked the Board to correct his record to show that he reenlisted in 1990 for six years rather than for four years so that he would be eligible for an SRB based on six years of service. In this regard, the applicant stated that "I re-enlisted with a Zone B multiple in 1990 and was told I did not qualify for a six year enlistment and was only allowed to enlist four years decreasing my bonus \$5,000.00."

On December 8, 1981, the applicant enlisted in the Coast Guard for four years. The applicant was retained on active duty for medical reasons for three months and 18 days, from December 7, 1985 through March 19, 1986. On March 19, 1986, he extended his enlistment for one year. On December 1, 1986, the applicant extended his enlistment for three years and three months. On June 19, 1990, the applicant reenlisted for four years. At that time he had served eight years, six months, and 11 days on active duty.

EXCERPTS FROM THE RECORD AND SUBMISSIONS

The applicant was advised by an administrative remarks (page 7) entry, dated June 18, 1990, that he was recommended for preferred reenlistment (RE-R1). Meeting the eligibility for a preferred reenlistment entitled a member to reenlist for a period of five or six years. Notwithstanding the RE-R1 reenlistment code, the applicant was only permitted to reenlist for four years in 1990. He claimed that he was told that he could only reenlist for four years because he had received an average mark of 3.3 (out of a

possible high of 4)¹ in the leadership category on his performance evaluations prior to June 30, 1983. (The applicant needed an average mark of 3.6 in leadership to qualify for preferred reenlistment.) He stated that he received the 3.3 mark when he was an E-2. He further stated that it was unfair that he was judged, in 1990, on a mark that he received, in 1982, as an E-2. He stated that at the time of his reenlistment in 1990, his command was praising his performance, but would only permit him to reenlist for four rather than six years.

Views of the Coast Guard

On November 3, 1999, the Chief Counsel of the Coast Guard recommended that the Board deny relief to the applicant. The Chief Counsel stated that the applicant is mistaken in his belief that he should have been eligible for preferred reenlistment in 1990.

The Chief Counsel stated that Article 12-B-4b.(3) of the Personnel Manual limited preferred reenlistments "for members with more than eight years of service and less than 20 years to petty officers first class or above, or if a petty officer second class, to those members above the cutoff on the current advancement eligibility list and in either case meet certain minimum marks."

The Chief Counsel stated that in 1990, the applicant was a petty officer second class with more than eight years of service and was not above the cut-off on the current eligibility list. Therefore, the applicant was not eligible for preferred reenlistment, regardless of his marks. The Chief Counsel stated that the page 7 entry and the applicant's DD Form 214 are incorrect and the applicant should not have been assigned a preferred reenlistment code. The Chief Counsel did not recommend that the applicant's record be corrected to remove the RE-R1 (preferred reenlistment code) because to do so would make the applicant's record appear worse.

Applicant's Response to the Views of the Coast Guard

On November 3, 1999, a copy of the views of the Coast Guard was mailed to the applicant with an invitation for him to respond to the Coast Guard views. He did not submit a response.

APPLICABLE REGULATION

Article 12-B-4b.(3)(b) of the Personnel Manual states that to be eligible for the preferred reenlistment code a member with eight years to completion of 20 years of service

¹ On June 30, 1983, the performance scale changed from a scale of 1 to 4 (the highest) to a scale of 1 to 7 (the highest).

must be serving as a petty officer first class or above, or if a petty officer second class, must be above the cutoff on the current advancement eligibility list and in either case have an average of at least 3.6 [proficiency], 3.6 [leadership], 3.9 [conduct] . . . for present enlistment through 30 June 1983 and have average factor marks equal to or better than [16 (military), 16 (team), 44 (work), 28 (leadership), 20 (responsibility), and 32 (human)] subsequent to 30 June 1983.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's submissions, the Coast Guard's submission, 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 is timely, pursuant to Detweiler v. Pena, 38 F.3rd 591 (D.C. Cir. 1994).

2. The applicant was erroneously given an RE-R1 (preferred reenlistment) code. Although the applicant had more than eight years of service, in 1990, he was not eligible for the RE-R1 reenlistment code because he was not a petty officer first class. He was a petty officer second class who was not above the cut-off on the current advancement eligibility list. Pursuant to Article 12-B-4b.(3) of the Personnel Manual, to be eligible for the RE-R1 reenlistment code, individuals, like the applicant, who had more than eight years of service had to be serving as petty officers first class. This provision also permitted petty officers second class to receive an RE-R1 reenlistment code as long as they were above the cutoff on the current advancement eligibility list.

3. In addition, the applicant did not have the necessary average mark of 3.6 in leadership to obtain a recommendation for preferred reenlistment. He had an average mark of 3.3 in the leadership category, prior to June 30, 1983. Article 12-B-4b.(3)(b) requires an average mark of 3.6 in leadership "for the present enlistment through June 30, 1983." The applicant had only one enlistment from December 8, 1981 through June 18, 1990, having extended his enlistment several times. He was not discharged from this enlistment until June 18, 1990. Therefore, his marks prior to June 30, 1983 should have been considered in determining whether he would be allowed to reenlist for more than six years.

4. The Coast Guard did not commit an error by allowing the applicant to reenlist for four years rather than six years. While the applicant might have been misinformed by the page 7 entry and the receipt of RE-R1 on his DD Form 214, he admits in his application that he was told that he could reenlist for only four years because of the 3.3 mark. The Coast Guard did commit an error by assigning the applicant an RE-R1 (preferred reenlistment) reenlistment code rather than an RE-1 (eligible for reenlistment) reenlistment code. The Board notes that the applicant has benefited from

this error by having his records reflect the highest possible recommendation for reenlistment, even though he was not entitled to it.

5. The applicant has failed to prove any error or injustice that requires a correction by the Board. Accordingly, his request should be denied.

ORDER

The application of [REDACTED]
military record is denied.

[REDACTED] USCG, for correction of his

