

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1999-093

FINAL DECISION

[REDACTED]

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 April 7, 1999, upon the BCMR's receipt of the applicant's complete application for correction of his military record.

This final decision, dated December 30, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a chief warrant officer four (CWO4), asked the Board to correct his record to show that he extended his enlistment on February 14, 1982, so that he would be eligible to receive a Zone B selective reenlistment bonus (SRB), in accordance with ALDIST 004/82. He claimed that he was not counseled regarding his SRB eligibility pursuant to ALDIST 004/82. The applicant stated that if he had been counseled properly, he would have extended his enlistment for six years to obtain an SRB.

On February 14, 1982, the applicant was a yeoman first class (YN1; pay grade E-6). At that time, he had been on continuous active duty since his enlistment on January 3, 1977.

On November 12, 1999, the Board received an advisory opinion from the Chief Counsel of the Coast Guard recommending that the applicant be granted relief. He stated that this case is analogous to the fact pattern in Docket No. 1999-022, wherein the Deputy General Counsel approved a grant of relief for that applicant.

In Docket No. 1999-022, the applicant had not been counseled on ALDIST 004/82, had a series of short-term enlistments, and has been on continuous active duty since his 1976 enlistment. The Deputy General Counsel agreed with the Board that the Coast Guard had obligated itself to counsel its members with respect to SRB opportunities. She further agreed with the Board that, in the absence of any evidence to the contrary, the applicant can establish a failure to counsel "with [his own] credible, sworn statement." Accordingly, the Deputy General Counsel found by a preponderance of the evidence that the applicant had shown that he was not counseled

with respect to ALDIST 004/82, and if he had been counseled, he would have extended his enlistment for six years in 1982.

The applicant's military record does not contain an administrative remarks (page 7) entry showing that he was counseled on his SRB eligibility during 1981 or 1982.

ALDIST 004/82

ALDIST 004/82, issued on January 12, 1982, locked in the multiples used for calculating SRBs under ALDIST 340/81 until February 15, 1982. A multiple of 2 was authorized for the YN rating under this ALDIST.

FINDINGS AND CONCLUSIONS

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

2. The Coast Guard failed to counsel the applicant, via an administrative remarks (page 7) entry, of his eligibility for an SRB, pursuant to ALDIST 004/82. This lack of counseling was a violation of COMDTINST 7220.33 (pertinent SRB instruction) which required that service members must be advised of the SRB program and their SRB eligibility via a page 7 entry.

3. The applicant was eligible and could have extended his enlistment in February 1982 to obtain a Zone B SRB.

4. Accordingly, the applicant's request for relief should be granted.

ORDER

The application for the correction of the military record of [REDACTED] USCG, is granted. His military record shall be corrected to show that on February 14, 1982, he agreed to extend his enlistment for six years. His record shall also be corrected to show that he received a Zone B SRB with a multiple of 2. The one-year extensions of enlistment signed by the applicant on December 9, 1983, December 3, 1984, January 30, 1986, December 18, 1986, and December 8, 1987, shall be null and void. The Coast Guard shall pay the applicant the amount that is due him as a result of this correction.

