

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1999-119

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 May 24, 1999, upon the BCMR's receipt of the applicant's complete application for correction of her military record.

This final decision, dated January 13, 2000, 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 her record to show that she extended her enlistment on February 14, 1982, so that she would be eligible to receive a Zone A selective reenlistment bonus (SRB), in accordance with ALDIST 004/82. She claimed that she was not counseled regarding her SRB eligibility pursuant to ALDIST 004/82. The applicant stated that if she had been counseled properly, she would have extended her enlistment for six years to obtain an SRB.

On February 14, 1982, the applicant was a yeoman first class (YN1; pay grade E-6). From June 11, 1976 to June 10, 1979, the applicant was in the Coast Guard Reserve. During her first Reserve enlistment, the applicant had approximately seven months of active duty training. During her second enlistment the applicant served one year, five months, and 24 days on extended active duty.

On January 28, 1982, she enlisted in the regular Coast Guard for a period of three years. On January 28, 1985, she enlisted for four years. She extended this enlistment for one year. The applicant received a Zone A SRB with a multiple of 1 upon her reenlistment in 1985. She was discharged from her enlistment on May 31, 1989 to accept a warrant officer appointment.

On November 10, 1999, the Chief Counsel of the Coast Guard submitted an advisory opinion 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 had 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 that applicant had shown that he was not counseled with respect to ALDIST 004/82, and if he had not 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 she was counseled on her SRB eligibility in 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 her eligibility for an SRB, pursuant to ALDIST 004/82. This lack of counseling was a violation of COMDTINST 7220.13E (pertinent SRB instruction) which required that service members must be advised of the SRB program.

3. The applicant was eligible and could have extended her enlistment in February 1982 to obtain a Zone A SRB. Since the applicant has received a Zone A SRB, with a multiple of 1, for her 1995 reenlistment, that amount would need to be deducted from any amount that she would receive as a result of this correction. Pursuant to the SRB instruction, an individual may have only one Zone A SRB during her or his career. Article 1.d.(1)(d) of Enclosure (1) to COMDTINST 7220.13E.

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

ORDER

The application for the correction of the military record of [REDACTED] JSCG, is granted. Her military record shall be corrected to show that on February 14, 1982, she agreed to extend her enlistment for six years. Her record shall also be corrected to show that she received a Zone A SRB with a multiple of 2. The Zone A SRB received by the applicant as a result of her 1985 reenlistment shall be deducted from the amount the applicant will receive as a result of this correction. The Coast Guard shall pay the applicant the amount that is due her as a result of this correction.

The applicant's January 28, 1985 reenlistment shall be null and void.

