


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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-148

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 commenced on July 8, 1999, upon the BCMR's receipt of the applicant's complete request for correction of his military record.

The final decision, dated May 10, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant requested that he be paid for two years of Zone B selective reenlistment bonus (SRB)¹ "due to improper counsel [in 1984] during the extension of [the applicant's] first enlistment."

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on May 13, 1980, for a term of four years, through May 12, 1984. In 1984, Coast Guard regulations entitled the applicant to counseling concerning the different effects reenlisting and extending would have on his *future* SRB eligibility. COMDTINST 7220.33F. Such counseling would have informed him that an SRB could depend on a member's average performance marks for the current enlistment. If a member extended his enlistment, past performance marks received during the enlistment would be included in the calculation of his average marks when he came up for reenlistment. If a

¹ SRBs vary according to the length of each member's active duty service, the length of the reenlistment or extension of enlistment, and the need of the Coast Guard for personnel in the member's skill rating. Coast Guard members who have served between 21 months and 6 years on active duty are in "Zone A." Those with at least 6 years but fewer than 10 years of active service are in "Zone B." Members may not receive more than one bonus per zone.

member reenlisted, only his performance marks during the new enlistment would be included in the calculation. The applicant did *not* receive this counseling. On February 22, 1984, the applicant extended his enlistment for four years, through May 12, 1988, and received a Zone A SRB.

When it was time for the applicant to reenlist in 1988, he was eligible for a Zone B SRB. However, because he had extended his enlistment in 1984, instead of reenlisting, poor performance marks he had received prior to 1984 were included in the calculation of his average performance marks. Under the regulations, he could only reenlist for four years due to his low average performance marks. The applicant stated that, if he had reenlisted in 1984 instead of extending, his average performance marks in 1988 would have been higher, entitling him to reenlist for six full years and receive the maximum SRB for his rating. The applicant reenlisted for four years on February 29, 1988, and received a smaller Zone B SRB than he would have received if he had been allowed to reenlist for six years.

Therefore, the applicant requested that the Board grant relief. To correct his record to make him eligible for the maximum Zone B SRB in accordance with regulations, the Board would have to (1) change his February 22, 1984, extension contract to a reenlistment contract; (2) change his four-year February 29, 1988, reenlistment contract to a six-year reenlistment contract dated February 22, 1988; and (3) change the date of his subsequent reenlistment from February 28, 1992 (four years after his old 1988 reenlistment), to February 22, 1994 (six years after his new 1988 reenlistment). This would carry him through July 1, 1997, when he was commissioned as a chief warrant officer. With these corrections, his record would appear as it presumably would have if he had been properly counseled in February 1984.

VIEWS OF THE COAST GUARD

On March 9, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant the relief requested. The Chief Counsel said that the Coast Guard failed to counsel the applicant regarding the effects of reenlistments and extensions on future SRB eligibility.

The Chief Counsel said that COMDTINST 7220.33F was the governing regulation in May 1984 when the applicant was deciding whether to reenlist or extend. Under that provision, the member was required to sign a Form CG3307 stating in part that [he] has "been counseled concerning, and fully understand[s], the effect [his] reenlistment/ extension will have upon [his] current and future SRB eligibility."

The Chief Counsel said there is no evidence in the record that the applicant was counseled on the differing effects of reenlistment and extension on current and future SRB entitlement. "The absence of that counseling was error."

Accordingly, the "Coast Guard recommends the Board grant the Applicant the relief requested."

APPLICANT'S RESPONSE TO COAST GUARD VIEWS

On March 13, 2000, the Board sent the applicant a copy of the views of the Coast Guard on this case and notified the applicant that he could submit a response to the Coast Guard's views within 15 days of the notification.

On March 20, 2000, the Board received the following submission from the applicant: "I agree with the findings of the board and have no objection to the Coast Guard recommendation."

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. COMDTINST 7220.13F, the SRB regulation that was applicable during the period when the applicant was deciding whether to reenlist or extend, provided that each member was required to sign a form stating that he had been counseled concerning his current and future SRB eligibility.

3. There is no evidence in this case that the applicant had been so counseled.

4. The Chief Counsel stated that the "absence of such counseling was error." Upon review of the facts, he recommended that relief be granted to the applicant.

5. Accordingly, the application should be granted

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ORDER

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

- His four-year extension contract dated February 22, 1984, shall be changed to a four-year reenlistment contract.
- His four-year reenlistment contract dated February 29, 1988, shall be changed to a six-year reenlistment contract dated February 22, 1988.
- His record shall further be corrected to show that he was discharged and reenlisted for six years on February 22, 1994, rather than on February 27, 1992.

The Coast Guard shall pay the applicant any sum he is due as a result of these corrections.

