

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

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Application for the Correction of  
the Coast Guard Record of:

BCMR Docket No. 1999-154

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**FINAL DECISION**

[REDACTED]

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 docketed on July 21, 1999, upon the BCMR's receipt of the applicant's completed application for correction.

This 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, a food service specialist second class (FS2; pay grade E-5) on active duty in the Coast Guard, asked the Board to make him eligible for a Zone A Selective Reenlistment Bonus (SRB)<sup>1</sup> pursuant to ALDIST 226/97 by correcting his record to show that on June 23, 1997, he extended his enlistment for the minimum of two years, rather than reenlisting for three years, and that he later cancelled this extension to reenlist for six years after the SRB became effective on October 1, 1997.

**APPLICANT'S ALLEGATIONS**

The applicant stated that, on April 2, 1997, his name appeared on a list of personnel approved for continued service by the Centralized First Term Reenlistment Review (CFTRR) panel published in ALCGENL 024/97. Thereafter, he was counseled by his command that he was required to reenlist or extend his enlistment within 90 days. However, he alleged, he was wrongly counseled about his options and SRB regulations. He alleged that he was "led to believe" that, if he reenlisted, his new enlistment would not go into effect until the end of his current enlistment, on December 12, 1997.

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<sup>1</sup> SRBs vary according to the length of each member's active duty service, the length of the period of 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." Members may not receive more than one bonus per zone.

He alleged that he was also "led to believe" that whether he reenlisted or extended his enlistment would make no difference to his future SRB eligibility.

Furthermore, the applicant alleged, he was pressured into reenlisting too early. He alleged that he was "led to believe the sooner [he] extended or reenlisted the better off [he] would be." However, the applicant stated, on June 27, 1997, four days after he reenlisted, the Commandant issued ALDIST 154/97, which, he alleged, removed the requirement that personnel approved by the CFTRR panel reenlist or extend their enlistments within 90 days and advised members of the consequent effect on possible future SRB entitlement. Therefore, he alleged, had he not been pressured into reenlisting on June 23, 1997, he would not have been required to reenlist or extend his enlistment until after the SRB became effective on October 1, 1997.

### SUMMARY OF THE RECORD

On May 11, 1993, the applicant enlisted in the Coast Guard Reserve for a term of eight years under the delayed entry program. On September 13, 1993, the applicant began a four-year enlistment on active duty in the regular Coast Guard, through September 12, 1997. In 1995, he extended this enlistment for three months, through December 12, 1997, in order to have sufficient obligated time in service to be permitted to attend "A" School and join the food service rating.

On April 2, 1997, the Commandant released ALCGENL 024/97, which published the results of the CFTRR completed on March 18, 1997. Under the terms of ALCGENL 024/97, the applicant was required to reenlist or extend his enlistment for at least three years beyond his original end of enlistment date, September 12, 1997, within 90 days of the announcement (by July 2, 1997). If he did not, he would be released from active duty at the end of his obligated service, on December 12, 1997.

On June 13, 1997, while assigned to the Coast Guard cutter *Morgenthau*, the applicant signed a statement indicating that he had received reenlistment counseling as required by Article 12-B-4 of the Personnel Manual and the CFTRR program. The statement indicated that he had decided to reenlist rather than extend his enlistment. It also indicated that if he did not reenlist or extend his enlistment for a minimum of three years prior to July 2, 1997, he would be discharged at the end of his then current enlistment on December 12, 1997.

On June 23, 1997, the applicant reenlisted for three years, through June 22, 2000. This reenlistment canceled the remainder of the applicant's first enlistment and his three-month extension through December 12, 1997.

On June 27, 1997, the Commandant issued ALDIST 154/97, which changed certain rules for members, such as the applicant, who were approved for continued service by the CFTRR in ALCGENL 024/97. ALDIST 154/97 announced that these members only had to obligate service by reenlisting or extending for two years (rather than three years) beyond their original end of enlistment dates to avoid being discharged. In addition, two-year extensions required by the CFTRR program could be canceled prior to their operative dates if the member became eligible for an SRB and wished to reenlist or extend for a longer period to earn the SRB. Members who had already responded to

ALCGENL 024/97 by signing three-year extension contracts could cancel them to sign two-year extensions instead. However, members, such as the applicant, who had already responded to ALCGENL 024/97 by signing new reenlistment contracts were not permitted to cancel their new enlistment contracts.

On September 30, 1997, the Commandant issued ALDIST 226/97, which authorized an SRB for members in the FS rating if they reenlisted or extended their current enlistments between October 1, 1997, and March 31, 1998. The Zone A SRB provided for FS2s who extended their enlistments or reenlisted was calculated with a multiple of one.

On April 16, 1998, the applicant extended his enlistment for one year, through June 22, 2001, to obligate sufficient service for a transfer.

The applicant submitted with his application a statement dated February 12, 1999, signed by his current commanding officer, the commander of Coast Guard Group San Francisco, who endorsed the applicant's request for relief. The commanding officer stated the following:

2. I am convinced that [the applicant] was not given complete, accurate counseling to clearly explain his career options under the [CFTRR] process. Had [the applicant] been properly counseled, the obvious choice would have been to choose an extension vice reenlistment to keep his options open for any possible SRB multiples. From his concise synopsis, it is apparent that [the applicant] acted in good faith on the information his career information advisors provided at the time. He acted expeditiously, as he was advised. Four days later the CFTRR policy changed.

3. [The applicant] is an exceptional performer, serving in a critical understaffed rating. He is a perfect example of the quality personnel we are striving to retain in the service. More specifically, he is one of those for whom the food service SRB was intended. It would be unfair to deny his request simply because he received and acted on bad career advice. ...

#### VIEWES OF THE COAST GUARD

On March 9, 2000, the Chief Counsel of the Coast Guard issued an advisory opinion in which he recommended that the Board deny the applicant's request.

The Chief Counsel stated that ALDIST 154/97 did not lift the 90-day restriction for members approved by the CFTRR on April 2, 1997. Instead, it lifted the restriction for members approved by a prior panel. Therefore, the Chief Counsel alleged, ALDIST 154/97 had no effect on the regulatory requirements governing the applicant's reenlistment or extension.

Furthermore, the Chief Counsel argued, even if ALDIST 154/97 had applied to the applicant, he would have been required to extend his enlistment for at least two years by August 2, 1997, and his two-year extension would have gone into effect on

September 12, 1997.<sup>2</sup> Once an extension has become operative, it cannot be canceled. Therefore, because an SRB was not authorized for the FS rating until October 1, 1997, he would not have been eligible for the SRB even if he had extended his enlistment for two years, instead of reenlisting for three, because the two-year extension could not have been canceled on October 1, 1997.

#### APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 13, 2000, the Chairman sent a copy of the Coast Guard's advisory opinion to the applicant and invited him to respond within 15 days. The applicant did not respond.

#### APPLICABLE REGULATIONS

ALCGENL 024/97, issued on April 2, 1997, published the results of the CFTRR panel completed on March 18, 1997. Members approved for continued service in ALCGENL 024/97 were required to reenlist or extend their enlistments for at least three years beyond their original end of enlistment dates within 90 days of the announcement (by July 2, 1997). Members who failed to do so would be released from active duty at the end of their enlistments. Members, such as the applicant, who had previously extended their enlistments for periods of less than three years were permitted to reenlist or extend their enlistments "for a total of 3 yrs or more."

ALDIST 154/97, issued on June 27, 1997, changed certain rules to resolve an apparent "misalignment" between CFTRR and SRB policies for "all CFTRR candidates selected for reenlistment (or extension) by the 18 Mar 97 CFTRR panel, Ref (D), and for all future candidates." Reference D was cited as the ALCGENL 024/97, issued on April 2, 1997. Members who were approved for continuing service by the March 18, 1997, CFTRR only had to obligate service by reenlisting or extending for two years (rather than three years) beyond their original end of enlistment dates to avoid being discharged. In addition, two-year extensions required by the CFTRR program could be canceled prior to their operative dates if the member became eligible for an SRB and wished to reenlist or extend for a longer period to earn the SRB. Because ALDIST 154/97 was issued so late in the 90-day period for obligating service allowed by ALCGENL 024/97, the 90-day period was changed to 120 days, ending on August 2, 1997. Moreover, members who had already responded to ALCGENL 024/97 by signing three-year extension contracts could cancel them to sign two-year extensions instead. However, members who had already responded to ALCGENL 024/97 by signing new reenlistment contracts were not permitted to cancel their new enlistment contracts.

Section 2 of Enclosure (1) of Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) provides that "[a]ll 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 service record entry, enclosure (3), outlining the effect that particular action has on their SRB entitlement."

<sup>2</sup> In a phone call, a member of the Chief Counsel's office told the BCMR that the applicant's three-month extension would have been automatically canceled when he signed the longer, two-year extension. Therefore, the two-year extension would have become operative at the end of his original enlistment, on September 13, 1997, rather than on December 13, 1997.

Enclosure (3) to the instruction requires that members sign a page 7 administrative entry indicating that they have been provided a copy of Enclosure (5), entitled "SRB Questions and Answers." Enclosure (5) explains that previously obligated service reduces an applicant's SRB. It further advises members, "[w]hen coming up on your end of enlistment, carefully consider the advantages/disadvantages of reenlisting vice extending."

Paragraph 3.d.(6) of Enclosure (1) to the instruction states that extensions canceled prior to their operative dates for the purpose of receiving an SRB reduce the SRB by the number of months of previously obligated service unless the extension is for a period of two years or less, in which case the SRB is not diminished.

ALDIST 226/97, issued on September 30, 1997, authorized payment of an SRB to members who reenlisted or extended their enlistments between October 1, 1997, and March 31, 1998. The Zone A SRB provided for FS2s who extended their enlistments or reenlisted was calculated with a multiple of one.

Article 1.G.18. of the Personnel Manual states that "[u]nless canceled for one of the reasons in [Article 1.G.19.], an Agreement to Extend Enlistment becomes effective on the date next following the normal date the enlistment expires or the enlistment expiration date as voluntarily extended or as extended to make up time not served ..., as appropriate."

Article 1.G.19. of the Personnel Manual includes the following provisions:

1. An extension of enlistment may not be canceled after it begins to run, either for the convenience of the Government or the person concerned.
- 2.b. The commanding officer may cancel an Agreement to Extend Enlistment on the effective extension date when the individual concerned has reenlisted or extended on that date for any authorized enlistment term longer than the original extension agreement. ... Extensions of two years or less for a member to receive PCS orders, attend training, or obligate for advancement may be canceled before their operative date for immediate reenlistment or longer extension without any loss of Selective Reenlistment Bonus eligibility.

### FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, 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 alleged that in June 1997 he was improperly pressured to sign a reenlistment or extension contract unnecessarily early and that he was improperly counseled about the different effects of reenlisting and extending on a member's future eligibility for an SRB. He alleged that, had he been properly counseled, he would

have extended his enlistment instead of reenlisting and therefore would have been eligible to reenlist for six years and receive an SRB pursuant to ALDIST 226/97.

3. Under ALCGENL 024/97, issued on April 2, 1997, the applicant was approved for continued service and required to make a decision about reenlisting or extending his enlistment within 90 days, by July 2, 1997. The record indicates that he received reenlistment counseling on June 13, 1997, and reenlisted for three years ten days later, on June 23, 1997, just ten days before the deadline. The Board finds that the applicant has failed to prove by a preponderance of the evidence that he was improperly pressed into making an early decision. His command could not be expected to advise its members to wait until the last possible moment to make a decision about reenlisting or extending in case the rules changed.

4. Prior to the issuance of ALDIST 154/97 on June 27, 1997, a three-year extension could not be canceled or switched for a two-year, cancelable extension. Therefore, if the applicant's command told him on June 13, 1997, that there was no difference between an extension and a reenlistment for SRB eligibility purposes, that information was correct at the time it was provided. The applicant's command could not predict that ALDIST 154/97 would be issued to change the CFTRR requirements.

5. Contrary to the Chief Counsel's allegation, ALDIST 154/97 did apply to members who were reviewed by the applicant's CFTRR panel. ALDIST 154/97 specifically states that the policy changes are effective for "all CFTRR candidates selected for reenlistment (or extension) by the 18 Mar 97 CFTRR panel," the results of which were published on April 2, 1997, in ALCGENL 024/97. The applicant's name appears on the list of members approved for continued service in ALCGENL 024/97.

6. ALDIST 154/97 permitted a member who had previously signed a three-year extension contract in response to ALCGENL 024/97 to cancel it and sign a two-year extension instead. This switch would leave the member eligible to cancel the extension and reenlist to receive an SRB if one was authorized for his rating prior to the operative date of his extension. ALDIST 154/97 provided no relief for members, such as the applicant, who had already reenlisted in response to ALCGENL 024/97, because reenlistments become operative immediately, whereas extensions only become operative when the term of enlistment expires.

7. If the applicant had extended his contract on June 23, 1997, rather than reenlisting, he would have been permitted, under ALDIST 154/97, to reduce the term of his extension to two years. Under Article 1.G.19 of the Personnel Manual, the new two-year extension could have become operative on September 13, 1997, if the applicant's commanding officer canceled the prior three-month extension. If this had happened, the applicant's extension would have become operative before the SRB was authorized for the FS rating on October 1, 1997, and he would not have been eligible to cancel the extension and reenlist to receive the SRB when it went into effect.

8. On the other hand, Article 1.G.18. states that, "[u]nless canceled for one of the reasons in [Article 1.G.19], an Agreement to Extend Enlistment becomes effective on the date next following the normal date the enlistment expires or the enlistment expiration date as voluntarily extended ... ." In addition, the language of ALCGENL 024/97

clearly anticipates that members may have already extended their enlistments for a few months and need only sign a new extension that would obligate them to serve "for a total of 3 yrs or more" after their original end of enlistment. Therefore, if the two-year extension had been intended to become operative on December 13, 1997, at the end of the enlistment as already extended, the applicant would have been eligible to cancel the extension and reenlist for an SRB under ALDIST 226/97.

9. In June 1993, neither the applicant nor his command had any way of knowing when in the future an SRB would be authorized for his skill rating. Moreover, on June 23, 1997, the applicant's command could not have known that ALDIST 154/97 would be issued to allow members who had signed three-year extensions to switch them for two-year, cancelable extensions.

10. Under Section 2 of Enclosure (1) COMDTINST 7220.33, the applicant was entitled to SRB counseling documented by a page 7 entry when he reenlisted on June 23, 1997. Although there is a page 7 entry in his record documenting his reenlistment interview, there is no page 7 entry documenting SRB counseling. The applicant alleged that, if he had been properly counseled, he would have extended instead of reenlisting to improve his chance of receiving an SRB in the future. However, because the applicant's command could not have predicted or counseled the applicant about ALDIST 154/97 or ALDIST 226/97, the Board finds that the applicant's claim is wholly speculative. Moreover, in BCMR Docket No. 1999-042, the Deputy General Counsel held that the SRB regulations do not entitle members to counseling concerning how to maximize their future SRB eligibility by minimizing their obligated service to the Coast Guard. Therefore, the applicant has failed to prove by a preponderance of the evidence that the Coast Guard committed any error that caused him to be denied an SRB.

11. Accordingly, the applicant's request should be denied.

**[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]**

**ORDER**

The application for correction of the military record of  
, USCG, is hereby denied.

