

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-166

FINAL DECISION

[REDACTED]

This is a proceeding conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on August 23, 1999, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated May 18, 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 fire control technician second class (FT2; pay grade E-5) on active duty in the Coast Guard, asked the Board to correct his military record to show that he reenlisted on his tenth anniversary on active duty, October 1, 1997, for a period of six years. He indicated that the correction would entitle him to receive a Zone B selective reenlistment bonus (SRB).¹

APPLICANT'S ALLEGATIONS

The applicant alleged that, pursuant to Coast Guard regulations, he should have been counseled prior to his tenth anniversary on active duty concerning his eligibility for an SRB. The applicant alleged that he was not counseled and that, if he had been counseled, he would have reenlisted for a term of six years in order to receive the maximum allowable SRB for his rating.

The applicant submitted with his application an endorsement from his commanding officer, who recommended that the Board grant the applicant's request. The

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 at most 10 years of active service are in "Zone B." Members may not receive more than one bonus per zone.

commanding officer stated that, during a recent career counseling session, it was discovered that the applicant "was never afforded the opportunity to reenlist prior to his tenth active duty anniversary date." He recommended that the Board correct his record so as to qualify him for a Zone B SRB with a multiple of 3 based on a six-year reenlistment.

SUMMARY OF THE RECORD

On February 26, 1985, the applicant joined the Marine Corps. He served on active duty for exactly four years and was discharged on February 25, 1989. From January 31, 1991, to December 30, 1991, the applicant served 11 months on active duty in the Marine Corps Reserve.

On August 31, 1992, the applicant joined the Coast Guard for a term of four years. He extended his first enlistment for three years, through August 30, 1999. His active duty base date is recorded as October 1, 1987, making his tenth anniversary on active duty October 1, 1997. His rate on that date was still FT3 (pay grade E-4). He was not advanced to FT2 until July 1, 1998. He reenlisted for another four years on May 31, 1999.

VIEWS OF THE COAST GUARD

On April 19, 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 argued that the applicant was not eligible for an SRB when he reenlisted on his tenth anniversary because his rate was still FT3 and his pay grade was E-4. The Chief Counsel stated that under COMDTINST 7220.33, a member must be in pay grade E-5 or above to be eligible for a Zone B SRB. Therefore, he argued, if the Coast Guard failed to counsel the applicant concerning SRBs prior to his tenth anniversary, it was a harmless error because he was not eligible for one.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 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

Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration), Section 3.d.(2), states that "[m]embers with exactly 10 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone B multiple in effect for their rating if they are otherwise eligible."

Section 3.d.(9) of Enclosure (1) states that "[c]ommanding officers are authorized to effect early discharge and reenlist members within 3 months prior to their 6th, 10th, or 14th year active service anniversary dates (not to be confused with the normal expi-

ration of enlistment), for the purpose of qualifying for a Zone A, B, or C SRB respectively."

Enclosure (3) to the instruction states that during the three months prior to their 6th, 10th, and 14th anniversary dates, members must be counseled concerning their eligibility for an SRB. The counseling must be memorialized in their records with a Form CG-3307 signed by the member.

Section 3.b.(4) of Enclosure (1) states that, to be eligible for a Zone B SRB, members must "[b]e serving in pay grade E-5 or higher."

ALDIST 135/97, issued on June 5, 1997, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments between July 1, 1997, and September 30, 1997. ALDIST 135/97 provided no Zone B SRB for members in the FT rating.

ALDIST 226/97, issued on September 30, 1997, allowed members to receive an SRB if they reenlisted or extended their current enlistments between October 1, 1997, and March 31, 1998. ALDIST 226/97 provided no Zone B SRB for members in the FT rating.

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. No Zone B SRB was in effect for the applicant's rating on the applicant's tenth active duty anniversary or during the three preceding months. ALDIST 135/97; ALDIST 226/97.
3. Even if there had been a Zone B SRB in effect for the applicant's rating on his tenth active duty anniversary, he would not have been eligible because he was still an FT3 (pay grade E-4) at that time. COMDTINST 7220.33, Enclosure (1), Section 3.b.(4).
4. The Coast Guard's apparent failure to counsel the applicant regarding SRBs prior to his tenth active duty anniversary constitutes harmless error because such counseling could not have enabled the applicant to become eligible for an SRB at that time.
5. Accordingly, the applicant's request should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of
military record is hereby denied.

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