

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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1999-167

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 docketed on August 23, 1999, following the BCMR's receipt of the applicant's completed application.

The final decision, dated June 29, 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 boatswain's mate second class (BM2; pay grade E-5) on active duty in the Coast Guard, asked "that [his] SRB entitlement be applicable for three year of service" with respect to his reenlistment of November 8, 1997.

SUMMARY OF RECORD

On November 9, 1993, the applicant enlisted in the Coast Guard for four years

On March 7, 1996, the applicant extended his enlistment for two years and seven months to meet the obligated service (OBLISERV) requirements for permanent change of station (PCS).

On November 8, 1997, the applicant signed a contract reenlisting for three years. The reenlistment was based, in part, on the promise of a Zone A SRB.

The applicant did not receive a Zone A SRB because he "failed to obligate for three or more years of *additional* obligated service." See COMDTINST 7220.33 (emphasis added).

VIEWS OF THE COAST GUARD

On March 28, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant partial relief to the applicant. The Chief Counsel offered a choice between an extended enlistment that ends on May 8, 2000 or an opportunity to reform the November 1998 reenlistment contract to show a reenlistment of six years or less.

The Chief Counsel noted that the applicant and his command alleged that he was improperly counseled on the provisions of ALDIST 154/97. The language that was deemed "confusing" authorized commanding officers to cancel extensions of more than two years that were executed to meet Centralized First Term Reenlistment Review (CFTRR) requirements.

The applicant's commanding officer (CO) wrote a letter on March 10, 1998, which was included in the record of this case. The CO said he had reviewed the application and based on that review "strongly and wholeheartedly support[ed] the applicant's] request." His first reason for that support was the confusing nature of the language in the applicable ALDIST. "ALDIST 154/97 is written in a fashion that confused the member, the CO and XPO at this command." The Chief Counsel agreed that the ALDIST was confusing. He also found that the CO in that letter "clearly indicates his command misinterpreted ALDIST 154/97."

The Chief Counsel said that a provision of ALDIST 154/97 authorized commanding officers to cancel extensions of more than two years that were executed to meet CFTRR requirements. The applicant was not a CFTRR candidate nor was he extending in accordance with CFTRR requirements. Accordingly, the Chief Counsel concluded that ALDIST 154/97 did not apply to the applicant.

The Chief Counsel found that the applicant proved error by showing that there "was no mutual understanding of the terms of the enlistment contract." The Chief Counsel declared that the Board should find that an error was committed.

Since there was an error on the part of the Coast Guard, there should be relief. The Chief Counsel proposed relief in the alternative. The Chief Counsel said the Board should grant partial relief (1) by substituting the March 1996 extension

contract in place of the November 1998 reenlistment contract, or (2) by giving the applicant the opportunity to receive up to 41 months of Zone A SRB entitlement.

APPLICANT'S RESPONSE TO THE COAST GUARD VIEWS

On March 29, 2000, the Board sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond with any comments within 15 days.

No response was received by the Board.

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 of the United States Code. The application was timely.

2. ALDIST 154/97 is confusing. The CO of the applicant's unit "misinterpreted" ALDIST 154/97. (That misinterpretation following confusing text constitutes an error.)

3. The applicant was improperly counseled as a result of this error.

4. The first alternative relief proposed by the Coast Guard can no longer be granted because it ended prior to the date of this final decision and the applicant did not indicate that he would extend beyond that date.

5. The second alternative relief proposed by the Coast Guard should give the applicant the opportunity to show an added enlistment of six years or less, from November 8, 1997, when he reenlisted for three years.

6. The applicant did not submit a response to the advisory opinion of the Coast Guard. Requiring him to serve on active duty for six additional years rather than three should not be done by the Board without some indication that the applicant agrees.

7. Accordingly, the application should be denied but without prejudice to reopening it and reenlisting the applicant for an additional six years or less, upon his request.

ORDER

The application to correct the military record of
, is hereby denied without prejudice. The applicant shall notify the Board by
December 1, 2000, if he wants the Board to correct his record to show that he reenlisted
for six years on November 8, 1997.

