

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

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1999-168

FINAL DECISION

[REDACTED]

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was commenced on August 23, 1999, upon the BCMR's receipt of the applicant's complete application for correction of his military record.

This final decision, dated August 24, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a boatswain's mate third class (BM3; pay grade E-4), asked the Board to correct his record by voiding an enlistment extension agreement, dated June 28, 1996. He further requested that his record be corrected to show that he reenlisted for six years on October 1, 1997, so that he would be eligible to receive a Reserve enlistment bonus, pursuant to ALDIST 221/97.

The applicant alleged that the four-year extension agreement, dated June 28, 1996, was actually signed sometime in 1997 and backdated to the June date. He stated that if the agreement had not been backdated he would have been eligible to receive the enlistment bonus.

On June 2, 1988, the applicant enlisted in the Coast Guard Reserve for eight years. During this eight-year enlistment, he had several periods of active duty. The last one occurred on May 28, 1991, when the applicant obligated himself for four years of active duty. On May 6, 1993, that active duty period was extended for 13 months. On February 1, 1996, the applicant was released from active duty back into the Reserve. His Reserve obligation terminated on June 27, 1996.

Views of the Coast Guard

In the Coast Guard advisory opinion, dated July 22, 1999, the Chief Counsel recommended that the Board grant relief to the applicant by voiding the June 28, 1996 extension agreement and establishing in its place a six-year reenlistment contract, dated October 29, 1997.

The Chief Counsel stated that documents in the Coast Guard's computer system indicate that on July 28, 1997 an extension contract was established for the applicant and on November 17, 1997 further alternations were made to this document.

The Chief Counsel stated that the June 28, 1996 extension contract is the only one in the applicant's record. This fact, coupled with the fact that the applicant was not assigned to a Reserve drill unit until October 29, 1997 is proof by a preponderance of the evidence that his June 28, 1996 extension agreement is invalid. Moreover, the Chief Counsel stated that if the applicant had extended or reenlisted in the Reserve on June 28, 1996, he would not have received the discharge certificate, dated June 27, 1996.

Applicant's Response to the Views of the Coast Guard

On April 20, 2000 a copy of the Coast Guard views was mailed to the applicant with an invitation for him to submit a response. He did not respond at that time. On June 13, 2000, the applicant was sent another copy of the advisory opinion, to which he responded. He stated that he agreed with the Chief Counsel that his record should be corrected so that he would receive the enlistment bonus. He questioned, however, whether he would receive retirement point credit for the drills performed between February 2, 1996 through October 28, 1997.

The applicant's response was sent to the Coast Guard for a supplemental advisory opinion with respect to the issue of drill points.

Supplemental Views of the Coast Guard

The Chief Counsel stated that the applicant "should not have both forms of relief (voiding and establishing a new enlistment contract and the retirement points) because they effectively cancel each other out." If the applicant had enlisted in the Reserve in 1996, he would not have been eligible to reenlist in October 1997 and to receive an enlistment bonus. To remain eligible for the bonus, the applicant must have had a period of broken service.

Applicant's Reply to the Supplemental Views of the Coast Guard

On August 14, 2000, the applicant advised a BCMR staff member that he had elected the enlistment bonus over the retirement points.

FINDINGS AND CONCLUSIONS

The Board finds that the Coast Guard committed an injustice against the applicant by back dating the July 28, 1997 extension contract to June 28, 1996 without explaining the effect it would have on his eligibility for the enlistment bonus that was in effect at the time he signed the extension agreement. The Board finds that the applicant is entitled to relief and the Coast Guard concurs in this grant of relief. Additionally, the applicant has accepted the Coast Guard's recommendation that his record be corrected to show an enlistment for six years beginning on October 29, 1997. He was also informed that if his record were corrected to void the backdated June 28, 1996 extension, he would not be credited with any Reserve retirement points between June

28, 1996 and October 28, 1997 because his corrected record would show that he was not in the Coast Guard during this period.

ORDER

The military record of [REDACTED] USCGR, shall be corrected to show that he enlisted in the Coast Guard Reserve on October 29, 1997 for six years, thereby becoming eligible for an enlistment bonus, pursuant to ALDIST 221/97. The Coast Guard shall pay the applicant the amount that is due him as a result of this correction. The four-year extension agreement dated June 28, 1996 is null and void.

All other relief is denied.

