

**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. 1999-177

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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 September 13, 1999, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated August 17, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

**RELIEF REQUESTED**

The applicant, an electronics technician second class (ET2; pay grade E-5) on active duty in the Coast Guard, asked the Board to correct his military record by canceling a six-year reenlistment contract he signed on July 7, 1999. Instead, he wants his record to reflect that he extended his previous enlistment for one month on July 7, 1999. The correction, he stated, would entitle him to receive a Zone B selective reenlistment bonus (SRB)<sup>1</sup> pursuant to ALDIST 184/99.

**APPLICANT'S ALLEGATIONS**

The applicant alleged that when he signed a reenlistment contract on July 7, 1999, he was told that the reenlistment would entitle him to receive a Zone B SRB calculated with a multiple of one under ALDIST 184/99. However, because he was still an electronics technician third class (ET3; pay grade E-4) on July 7, 1999, the reenlistment did not entitle him to an SRB. He alleged that if he had known about the requirement that he be in pay grade E-5 to receive a Zone B SRB, he would have extended his previous enlistment for one month so that he could reenlist after he was promoted to E-5 and receive the SRB.

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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 with the member's particular skills. Coast Guard members who have served between 6 and 10 years on active duty are in "Zone B." Members may only receive one SRB per zone.

In support of his request, the applicant submitted a statement signed by his Executive Officer. The Executive Officer stated that the applicant was not properly counseled concerning his eligibility for an SRB due to an administrative oversight. He stated that the applicant should have been advised to extend his enlistment for one month and reenlist after he was promoted to E-5.

### SUMMARY OF THE RECORD

On July 17, 1995, the applicant enlisted in the Coast Guard for a term of four years, through July 16, 1999. Prior to entering the Coast Guard, the applicant served three years and eleven months on active duty in the Marines. Therefore, his active duty service date is August 17, 1991.

On November 20, 1997, the applicant extended his enlistment for one year and eleven months, through June 16, 2001, to obligate sufficient service to accept orders for attending school.

On July 7, 1999, while still at the rank of ET3 and in pay grade E-4, the applicant signed a six-year reenlistment contract, through July 6, 2005. The contract states that he "is entitled to a Zone B SRB with a multiple of one." There is no entry in the applicant's record indicating that he was counseled concerning his SRB eligibility.

On August 1, 1999, the applicant was promoted to ET2 and pay grade E-5.

### VIEWS OF THE COAST GUARD

On May 24, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant partial relief in this case.<sup>2</sup>

The Chief Counsel stated that the applicant's reenlistment contract dated July 7, 1999, should be voided because it was based on an erroneous written promise that he would receive a Zone B SRB. However, he argued, there is no authority to void the applicant's first extension, from July 17, 1999, through June 16, 2001, and replace it with the one-month extension the applicant has requested. He argued that extensions may only be cancelled for the purpose of signing a longer extension or reenlistment.

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

On May 24, 2000, the BCMR sent the applicant a copy of the Chief Counsel's recommendation and invited him to respond within 15 days. On July 17, 2000, the applicant responded, stating that he "fully agreed with the submitted recommendations."

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<sup>2</sup> The Chief Counsel initially submitted his advisory opinion for this case on March 28, 2000. However, that recommendation was based on a misunderstanding of the applicant's request. Upon inquiry by the BCMR staff, the Chief Counsel submitted a substitute advisory opinion on May 24, 2000.

### APPLICABLE REGULATIONS

Section 2 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." The page 7 members must sign states that they have been provided with a copy of the SRB instruction.

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

Section 3.d.(6) of Enclosure (1) states that "[e]xtensions previously executed by members may be canceled prior to their operative date for the purpose of executing a longer extension or reenlistment ... ."

ALDIST 184/99, issued on May 13, 1999, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments after June 15, 1999. The multiple to be used for calculating Zone B SRBs for members in the ET rating was one.

### 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. Under Section 2 of Commandant Instruction 7220.33, the applicant was entitled to proper counseling concerning his eligibility for a Zone B SRB under ALDIST 184/99 when he reenlisted on July 7, 1999. Proper counseling would have provided him with a copy of the instruction, whose terms would have informed him that as an ET3/E-4, his reenlistment would not entitle him to an SRB. COMDTINST 7220.33, Enclosure (1), Section 3.b.(4).
3. The reenlistment contract the applicant signed on July 7, 1999, proves that he was wrongly counseled about his eligibility for an SRB and wrongly promised an SRB for which he was not eligible in consideration for his reenlistment. The Coast Guard erred and committed an injustice in inducing the applicant to reenlist for six years with this false promise.
4. Under Section 3.d.(6) of Enclosure (1) to the SRB instruction, the applicant could not cancel his extension of one year and eleven months to extend or reenlist for any shorter period of time. Moreover, once that extension became effective on July 17, 1999, he could not cancel it. After he was promoted to ET2, on August 1, 1999, the applicant could not take advantage of ALDIST 184/99 to receive an SRB because his extension was in effect and would not end until June 2001.

5. Accordingly, the applicant's request should be granted in part by voiding his six-year reenlistment. However, his extension contract should remain in effect.

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

**ORDER**

The application of \_\_\_\_\_ JSCG, for correction of his military record is hereby granted in part as follows:

His reenlistment contract dated July 7, 1999, shall be null and void. The extension contract he signed on November 20, 1997, shall be reinstated as having gone into effect on July 17, 1999.

No other relief is granted.

