

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-178

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

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 machinery technician second class (MK2; pay grade E-5) on active duty in the Coast Guard, asked the Board to correct his military record to make him eligible for a selective reenlistment bonus (SRB)¹ under ALDIST 290/98.

APPLICANT'S ALLEGATIONS

The applicant alleged that he was never counseled concerning SRBs during the three months prior to his sixth anniversary on active duty, April 19, 1999. He alleged that such counseling was required by COMDTINST 7220.33 and that if he had received it, he would have reenlisted so as to be eligible for the SRB.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on April 19, 1993, for a term of four years. On February 23, 1996, he extended his enlistment for three years and two months, through June 18, 2000, to obligate sufficient service to accept transfer orders.

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.

The applicant's sixth anniversary on active duty fell on April 19, 1999. There is no document in his record indicating that he was counseled concerning SRBs prior to his sixth active duty anniversary. On December 2, 1999, the applicant extended his enlistment for another eight months, through February 18, 2001, to accept transfer orders.

VIEWS OF THE COAST GUARD

On March 28, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request for relief by reenlisting him for six years as of April 19, 1999.

The Chief Counsel stated that the record supports the applicant's allegation that he was never counseled concerning SRBs prior to his sixth active duty anniversary. He also stated that the applicant is an excellent performer who "took prompt action to rectify the failure to counsel error after its discovery and is now willing to offer a new 6-year reenlistment as consideration for the SRB he requests."

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 29, 2000, the Chairman sent the applicant a copy of the views of the Coast Guard 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.(1), states that "[m]embers with exactly 6 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone A 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 expiration 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.

ALDIST 290/98, issued on November 24, 1998, authorized members in the MK rating in Zone A who reenlisted or extended their enlistments after November 25, 1998, to receive an SRB with a multiple of 2. ALDIST 290/98 remained in effect until June 14, 1999.

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 he was not properly counseled about his eligibility to receive an SRB by requesting discharge and reenlistment during the three months prior to his sixth anniversary on active duty. He alleged that, had he been properly counseled, he would have reenlisted to become eligible for the SRB.
3. Under Enclosure (3) to Commandant Instruction 7220.33, the applicant had a right to be counseled concerning SRBs prior to his sixth active duty anniversary on April 19, 1999. There is no evidence that the Coast Guard counseled the applicant concerning his eligibility for an SRB during the three months prior to that date. Had he been so counseled, a Form CG-3307 should appear in his record, but there is none.
4. Under Section 3.d.(9) of Enclosure (1) to the instruction, the applicant was eligible to be discharged on April 19, 1999, his sixth active duty anniversary, and immediately reenlisted to qualify for a Zone A SRB. Under ALDIST 290/98, he would have received a Zone A SRB with a multiple of 2 for his newly obligated service.
5. The Chief Counsel recommended that the Board grant the applicant relief by correcting his record to show that on April 19, 1999, he reenlisted for a term of six years. The applicant did not object to this recommendation.
6. The Coast Guard erred by not properly counseling the applicant concerning his eligibility for an SRB on his sixth active duty anniversary. Had he been properly counseled, the Board is persuaded that he would have reenlisted for six years to receive the maximum possible SRB, subject to reduction for the remaining obligated service on his previous enlistment.
7. Therefore, the applicant's request should be granted.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]