

**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. 1999-182

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**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 22, 1999, upon the BCMR's receipt of the applicant's completed application for correction.

This final decision, dated August 17, 2000, is signed by 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 show that he reenlisted for four years on his sixth anniversary on active duty, May 10, 1999, to receive a Zone A selective reenlistment bonus (SRB)<sup>1</sup> calculated with a multiple of two under ALDIST 290/98, which was issued on November 24, 1998, and remained in effect until June 14, 1999.

**APPLICANT'S ALLEGATIONS**

The applicant alleged that he was improperly counseled concerning SRBs during the three months prior to his sixth anniversary on active duty. He alleged that he was told he could not reenlist until his enlistment expired on August 29, 1999. He alleged that he should have been advised that he could cancel the extension of his current enlistment on his sixth active duty anniversary and reenlist for a longer period to become eligible for an SRB. He alleged that if he had been properly counseled in

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<sup>1</sup> 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.

accordance with COMDTINST 7220.33, he would have canceled his extension and reenlisted for four years to receive the SRB.

In support of his allegations, the applicant submitted a statement signed by his unit's chief yeoman. The chief yeoman stated that the applicant was wrongly advised prior to his sixth active duty anniversary that he could not reenlist until the expiration of his enlistment on August 29, 1999. However, because ALDIST 290/98 was canceled prior to that date, the applicant became ineligible for an SRB.

### **SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on August 30, 1993, for a term of four years, through August 29, 1997. Prior to entering the Coast Guard, the applicant had served over three months on active duty in the National Guard. Therefore, his active duty service date is May 11, 1993.

On July 1, 1997, he extended his enlistment for two years, through August 29, 1999. On March 18, 1998, the applicant extended his enlistment a second time, for the ten months from August 30, 1999, through June 29, 2000, to accept transfer orders to a new duty station.

The applicant's sixth anniversary on active duty fell on May 11, 1999, prior to the day his second, ten-month extension went into effect. There is no document in his record indicating that he was properly counseled concerning SRBs prior to his sixth active duty anniversary.

### **VIEWS OF THE COAST GUARD**

On March 30, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request for relief by reenlisting him for four years as of May 11, 1999.

The Chief Counsel stated that the applicant "has proved that the Coast Guard committed error by failing to properly explain the policies and requirements of COMDTINST 7220.33. Applicant was improperly counseled regarding his right to cancel an existing extension agreement on his 6-year anniversary to reenlist or extend for an SRB and was, therefore, denied an entitlement."

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

On April 3, 2000, the BCMR 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."

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 ... ."

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 two. 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 improperly counseled about his eligibility to receive an SRB by canceling his ten-month extension and requesting discharge and reenlistment on his sixth anniversary on active duty. He alleged that he was told he could not cancel the extension and reenlist until the end of his enlistment, August 29, 1999. He alleged that, had he been properly counseled, he would have canceled the ten-month extension and reenlisted for four years to become eligible for a Zone A SRB under ALDIST 290-98.
3. Under Enclosure (3) to Commandant Instruction 7220.33, the Coast Guard was required to counsel the applicant properly concerning SRBs prior to his sixth active duty anniversary. (Although the applicant alleged that May 10, 1999, was his sixth active duty anniversary, it was actually May 11, 1999.) The applicant has proved by a preponderance of the evidence that he was wrongly counseled concerning his eligibility to reenlist for an SRB prior to his sixth active duty anniversary.
4. Under Sections 3.d.(6) and (9) of Enclosure (1) to the instruction, the applicant was eligible to cancel his ten-month extension prior to its effective date (August 30, 1999) and to be discharged and immediately reenlisted on May 11, 1999, his sixth active

duty anniversary. Under ALDIST 290/98, he would have been eligible to receive a Zone A SRB with a multiple of two.

5. The Chief Counsel recommended that the Board grant the applicant relief by correcting his record to show that on May 11, 1999, he reenlisted for a term of four 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 canceled his ten-month extension and reenlisted for four years to receive a Zone A SRB with a multiple of two.

7. Accordingly, the applicant's request should be granted.

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

ORDER

The application of \_\_\_\_\_, USCG, for correction of his military record is hereby granted.

His record shall be corrected to show that on May 11, 1999, his sixth active duty anniversary, he canceled his ten-month extension contract (which was to become effective on August 30, 1999) and reenlisted for a term of four years for the purpose of receiving a Zone A SRB with a multiple of two under ALDIST 290/98.

The Coast Guard shall pay the applicant any sum he is due as a result of this correction.

