

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2000-033

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 December 13, 1999, after the Board received the applicant's complete application.

This final decision, dated July 26, 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 show that on his sixth anniversary on active duty, June 8, 1998, he was discharged and reenlisted for six years. The correction would allow the applicant to receive a selective reenlistment bonus (SRB) under ALDIST 046/98. The applicant also asked the Board to void an extension contract he needed to sign while his case was pending before the Board because his enlistment was due to end on January 10, 2000.

APPLICANT'S ALLEGATIONS

The applicant alleged that prior to his sixth anniversary on active duty, no one counseled him concerning his eligibility to be discharged and immediately reenlisted to receive an SRB under ALDIST 046/98. He alleged that he was entitled to such counseling under COMDTINST 7220.33. He stated that if he had been properly counseled, he would have reenlisted for six years to receive a Zone A SRB with a multiple of one. Furthermore, if he had enlisted for six years on June 8, 1998, he would not have been required to extend his enlistment while his case was pending before the Board.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on June 9, 1992, for four years. On January 11, 1996, he reenlisted for four years, through January 10, 2000. Therefore, his sixth anniversary on active duty fell on June 9, 1998.

There is no documentation of any SRB counseling in the applicant's record prior to his sixth anniversary on active duty.

VIEWS OF THE COAST GUARD

On June 29, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request.

The Chief Counsel stated that the applicant should be granted relief because he was not counseled about his eligibility to receive the SRB. The Chief Counsel also stated that the applicant is an excellent performer who "took proper action to rectify the alleged error after its discovery and is now willing to offer a new 6-year reenlistment as consideration for the SRB he requests."

The Chief Counsel recommended that the Board grant relief by correcting his record to show that he reenlisted for six years on his sixth anniversary, June 9, 1998. He also noted that the applicant had previously obligated service through January 10, 2000, and that SRBs are calculated based only on months of service newly obligated by the enlistment or extension.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 30, 2000, the BCMR sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond within 15 days. On July 10, 2000, the applicant responded, stating that he had no objection to the recommendation.

APPLICABLE REGULATIONS

Section 3.d.(1) of Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) 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. In such cases, SRB payments will be reduced by any portion of unserved service obligation."

Enclosure (3) to the instruction states that during the three months prior to the end of an enlistment, each member must be counseled concerning his or her eligibility for an SRB, have his or her questions concerning SRBs answered, and be provided with

a copy of Enclosure (5), which is entitled "SRB Questions and Answers." The counseling must be memorialized in the member's record with a Form CG-3307 signed by the member.

ALDIST 046/98, issued on March 29, 1998, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments between April 1, 1998, and September 30, 1998. The multiple to be used for calculating Zone A SRBs for members in the MK 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 of the United States Code. The application was timely.
2. The applicant alleged that he was not 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, June 8, 1998. He alleged that, had he been properly counseled, he would have reenlisted for six years 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. Because he originally enlisted on June 9, 1992, and has served continuously on active duty ever since, his sixth anniversary fell on June 9, 1998. 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 Sections 3.d.(1) and (9) of Enclosure (1) to the instruction, the applicant was eligible to be discharged on June 9, 1998, his sixth active duty anniversary, and to be immediately reenlisted to qualify for a Zone A SRB. Under ALDIST 046/98, he would have received a Zone A SRB with a multiple of 1 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 June 9, 1998, he reenlisted for a term of six years. The applicant agreed with 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. Moreover, if the applicant had reenlisted for six years on June 9, 1998, he would not have needed to sign an extension contract while his case was pending before the Board.
7. Accordingly, the applicant's request should be granted.

ORDER

The application of [REDACTED] USCG, for correction of his military record is hereby granted.

His record shall be corrected to show that on his sixth anniversary on active duty, June 9, 1998, he was discharged and immediately reenlisted for a term of six years for the purpose of receiving a Zone A SRB in accordance with the terms of ALDIST 046/98.

Any extension of enlistment contract signed by the applicant between June 9, 1998, and the date of this decision shall be null and void.

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

