


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2000-051

FINAL DECISION

 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 January 11, 2000, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated September 7, 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 xxxxxxxxxx, asked the Board to correct his record to show that he reenlisted for six years on his sixth anniversary on active duty. The correction would entitle him to receive a Zone A selective reenlistment bonus (SRB)¹ pursuant to ALDIST 184/99. In addition, he asked the Board to cancel the one-year extension contract he signed on January 21, 2000.

APPLICANT'S ALLEGATIONS

The applicant stated that on his sixth active duty anniversary, he was eligible for an SRB and that, pursuant to Coast Guard regulations, he should have been counseled about his eligibility. He alleged that he was not properly counseled and did not learn about the SRB opportunity until after his sixth anniversary had passed. He further alleged that, if he had been properly counseled, he would have reenlisted for a term of

¹ 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 6 or less years on active duty are in "Zone A." Members may only receive one SRB per zone.

six years to receive the maximum allowable SRB for his rating under ALDIST 184/99. He alleged that, if he had reenlisted for six years on his sixth anniversary, he would not have been required to extend his previous enlistment for one year on January 21, 2000.

SUMMARY OF THE RECORD

On August 17, 1993, the applicant enlisted in the Coast Guard for a term of four years, through August 16, 1997. On April 30, 1997, the applicant reenlisted for three years, through April 29, 2000.

The applicant's sixth anniversary on active duty fell on August 17, 1999. On that day, ALDIST 184/99 was in effect, authorizing Zone A SRBs calculated with a multiple of three for members in the TC rating. There is no administrative entry (page 7) in the applicant's record to indicate that he was ever counseled about his eligibility for an SRB.

On January 21, 2000, the applicant extended his enlistment for one year, through April 29, 2001.

VIEWS OF THE COAST GUARD

On July 28, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant relief in this case.

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

The Chief Counsel recommended that the Board correct the applicant's record to show that he reenlisted for six years on his sixth active duty anniversary. He noted that because the applicant had previously obligated himself to serve through April 29, 2000, his Zone A SRB would be reduced due to his nine months of "previously obligated service."

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On July 31, 2000, the BCMR sent the applicant a copy of the Chief Counsel's recommendation and invited him to respond within 15 days. He 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 page 7 signed by the member.

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

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 for an SRB prior to his sixth anniversary on active duty. He alleged that, had he been properly counseled, he would have been discharged on his sixth anniversary and immediately reenlisted for a term of 6 years to receive the maximum possible SRB for his rating.

3. Under Section 3.d.(9) of Enclosure (1) to Commandant Instruction 7220.33, the applicant was eligible to be discharged on his sixth anniversary on active duty, August 17, 1999, in order to reenlist and receive an SRB under ALDIST 184/99. Under Enclosure (3) to the instruction, the applicant had a right to be counseled concerning his eligibility during the three months prior to his sixth active duty anniversary.

4. There is no evidence that the Coast Guard counseled the applicant concerning his eligibility for an SRB prior to his sixth anniversary on active duty. Had he been so counseled, a page 7 documenting the counseling should appear in his record,

but there is none. Therefore, the preponderance of the evidence indicates that the Coast Guard erred by not properly counseling the applicant.

5. Upon discovering the error, the applicant quickly applied to this Board for relief. Therefore, the Board concludes that, if the applicant had been timely counseled, he would have been discharged and reenlisted for a term of six years to receive an SRB.

6. If he had reenlisted for six years on August 17, 1999, the applicant would not have needed to extend his previous enlistment on January 21, 2000.

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

ORDER

The application of XXXXXXXXXXXX, USCG, for correction of his military record is hereby granted as follows:

His record shall be corrected to show that he was discharged and reenlisted on his sixth anniversary on active duty, August 17, 1999, for a term of six years, for the purpose of receiving a Zone A SRB with a multiple of three under ALDIST 184/99.

The one-year extension contract that he signed on January 21, 2000, and that went into effect on April 30, 2000, shall be null and void.

The Coast Guard shall pay the applicant the amount due him as a result of this correction.

