

**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. 2001-044

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**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 February 16, 2001, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated August 31, 2001, is signed by the three duly appointed members who were designated to serve as the Board in this case.

**RELIEF REQUESTED**

The applicant, an XXXXXXXXXXXX (XXXX; pay grade E-5), asked the Board to correct his record to show that he reenlisted for six years on June 14, 2000, instead of extending his enlistment for one month. The correction would entitle him to receive a Zone B selective reenlistment bonus (SRB)<sup>1</sup> pursuant to ALCOAST 184/99.

**APPLICANT'S ALLEGATIONS**

The applicant alleged that he received permanent change of station (PCS) orders in April 2000 to transfer to a new air station in July 2000. He was told that to accept the orders, he was required to extend his enlistment for one month so that he would have at least one full year of obligated service remaining upon his arrival at the new station.

The applicant alleged that he knew there was a Zone B SRB in effect for members in the XXX rating at the time, so he asked his unit's yeoman if he could reenlist to earn the SRB. He alleged that the yeoman told him that he was not authorized to reenlist because he was not within 90 days of the end of his enlistment. He alleged that he learned the yeoman was wrong after he had extended his enlistment and been trans-

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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.

ferred to the new air station, where he was counseled by a different yeoman when he had to extend his enlistment again to undergo more training.

### SUMMARY OF THE RECORD

On July 7, 1992, the applicant enlisted in the Coast Guard for a term of four years, through July 6, 1996. He has extended this original enlistment five times, for a total of six years, as follows:

No.	Date Signed	Duration	Cause/Purpose of Extension	Operative Date	End Date
1	1 Mar 95	1 y, 3 m	To obligate sufficient service to qualify for training	7 July 96	6 Oct 97
2	28 June 96	1 y, 9 m	Authorized by Personnel Command	7 Oct 97	6 July 99
3	6 July 99	2 y	Request of member	7 July 99	6 July 01
4	14 June 00	1 m	To obligate sufficient service to accept PCS orders	7 July 01	6 Aug 01
5	16 Feb 01	11 m	To obligate sufficient service to qualify for training	7 Aug 01	6 July 02

Each of these extension contracts contained the following language with the blanks filled in with "NA," meaning "not applicable":

### SRB ELIGIBILITY ACKNOWLEDGMENT

I have been provided with a copy [of] "SRB Questions and Answers" based on Commandant Instruction 7220.33 (series). I have been informed that: My current Selective Reenlistment Bonus (SRB) multiple under zone NA is NA and is listed in ALDIST NA, which has been made available for review. I further understand the eligibility requirements for Zone A, B, and C SRB's and that the maximum SRB paid to my current pay grade is \$ NA. My SRB will be computed based on NA months newly obligated service.

### EFFECT OF EXTENSION/REEXTENSION ON SRB ENTITLEMENT

I fully understand the effect my extension/reextension will have upon my current and future SRB eligibility. ... I further acknowledge that I have been given the chance to review COMDTINST 7220.33 (series) concerning my eligibility for SRB and have had all my questions answered.

At the time of his fourth extension on June 14, 2000, ALCOAST 184/99 was in effect, authorizing Zone B SRBs calculated with a multiple of one-half for members in the XXX rating. When he was required to extend his enlistment a fifth time to receive training on February 16, 2001, no Zone B SRB was in effect for his rating under ALCOAST 488/00.

There is no administrative entry ("page 7") in the applicant's record documenting counseling about his obligated service requirement prior to accepting transfer orders, as required by Article 4.B.1.i.1.b. of the Personnel Manual. There is also no page 7 documenting SRB counseling, as required by COMDTINST 7220.33.

The applicant was promoted to his current rank, XXXX, on October 1, 1999. His record contains no negative entries and several positive entries commending him for excellent work.

## VIEWS OF THE COAST GUARD

On June 22, 2001, the Chief Counsel of the Coast Guard recommended that the Board grant "conditional relief" in this case. He recommended a grant of relief only if the applicant could submit evidence to prove that he was misinformed by the yeoman. The Chief Counsel confirmed the applicant's allegation that he was in fact authorized to reenlist when he received the PCS orders even though his enlistment was not due to end within 90 days. However, he argued that the Board should require the applicant to submit a statement from the yeoman at his old station to support his allegation of mis-counseling.

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

On June 25, 2001, the BCMR sent the applicant a copy of the Chief Counsel's recommendation and invited him to respond or request an extension of the time to respond within 15 days. No response was received.

On August 6, 2001, the applicant telephoned the BCMR in response to an inquiry. (In his original application, he had failed to specify for how many years he wanted to reenlist.) He stated over the telephone that he would like a six-year reenlistment if relief were granted because he intended to make a career in the Coast Guard. He repeated his allegation that when he received the transfer orders in the spring of 2000, he asked to reenlist to get the SRB, but his yeoman insisted that only a one-month extension was authorized by the PCS orders. He also stated that his current yeoman had contacted his old unit to ask for a statement supporting his allegation but the request was refused.

## APPLICABLE REGULATIONS

Under ALCOAST 184/99, members in the XXX rating with between six and ten years of active service were eligible for a Zone B SRB calculated with a multiple of one-half if they reenlisted or extended their enlistments for at least three but at most six years between January 1 and June 30, 2000. The maximum SRB allowable was \$45,000.

Under paragraph 3.b.(5) of Enclosure (1) to COMDTINST 7220.33, entitled "Reenlistment Bonus Programs Administration," SRBs are only payable to members who extend their enlistments or reenlist for at least three years. However, under Article 1.G.14.a.1. of the Personnel Manual, members may not extend any one enlistment for more than six total years. Under Article 12.B.7.b. of the Personnel Manual, members may normally be discharged and reenlisted by their commands only during the three months prior to and within 24 hours after the expiration of their enlistments. However, under Article 12.B.12.(4), members may be discharged and immediately reenlisted at any time "provided reenlistment is for a term of service more than required under existing obligation."

Article 4.B.6.a.2. of the Personnel Manual states that members in pay grade E-4 and above must have at least one year of obligated service to accept PCS orders. Article 1.G.17.b. states that members may extend their enlistments "considerably in advance" of the expiration dates of their enlistments for the purpose of obligating sufficient serv-

ice to accept PCS orders. Article 4.B.1.i.1.b. provides that members who receive PCS orders must be counseled about the obligated service requirements and sign a page 7 documenting that counseling.

Section 2 of COMDTINST 7220.33 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." Paragraph 3.a.d.(5) of Enclosure (1) to the instruction states that members who must extend their enlistments to accept transfer orders "may extend for a period greater than the minimum required for the purpose of gaining entitlement to an SRB." No mention is made of reenlisting under these circumstances.

### 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 accepting his PCS orders in June 2000. He alleged that his unit's yeoman told him that he could only extend his contract for one month, which would not make him eligible for the SRB. He alleged that had he been properly counseled and allowed to reenlist, he would have reenlisted for six years to receive the maximum possible SRB.

3. Most of the regulations in the Personnel Manual and COMDTINST 7220.33 that concern the requirement that enlisted members obligate a certain amount of service before accepting PCS orders refer to members extending their enlistments for that purpose and do not mention the option of reenlisting. However, members may reenlist when they are required to obligate service to accept PCS orders, even if they are not within three months of the end of their enlistments. Personnel Manual, Article 12.B.12.(4).

4. When the applicant received PCS orders in the spring of 2000, he had to have at least one full year of obligated service at the new station to accept the orders. Personnel Manual, Article 4.B.6.a.2. Because his enlistment was due to expire 11 months after his expected transfer date, he had to extend his enlistment for at least one month or reenlist to accept the orders. Under ALCOAST 184/99, members in the XXX rating were eligible for a Zone B SRB calculated with a multiple of one-half if they reenlisted or extended his enlistment for at least three years. However, the applicant could not earn the SRB by extending his enlistment since he had already extended it for more than three years, and an enlistment may not be extended for more than six years total. Personnel Manual, Article 1.G.14.a.1. Therefore, to receive the SRB, he had to reenlist, which, he alleged, his unit's yeoman did not allow him to do.

5. In February 2001, seven months after he signed the one-month extension contract in June 2000, the applicant was required to obligate more months of service to qualify for special training. The Zone B SRB for his rating was no longer authorized. After being counseled by his new unit's yeoman, he extended his enlistment for another 11 months and applied to this Board to correct his previous one-month extension contract to a six-year reenlistment contract so that he would receive the SRB.

6. The Chief Counsel argued that the Board should require the applicant to prove that he was miscounseled and not allowed to reenlist by providing a signed statement from the yeoman who allegedly miscounseled him. He alleged that despite the absence of a page 7 documenting SRB counseling, the Board should find that the applicant was properly counseled since he signed the extension contract acknowledging SRB counseling, unless the applicant provides a signed statement from his previous yeoman. The applicant stated that his new unit's yeoman asked the old unit for such a statement, but the request was denied.

7. It is possible that a member in the applicant's situation in June 2000 might refuse to reenlist, hoping that a larger SRB would be authorized for his rating the next time he was required to obligate service. The question before this Board is whether the preponderance of the evidence in the record supports the applicant's allegation that the yeoman at his previous unit misadvised him, in violation of Section 2 of COMDTINST 7220.33, about his right to reenlist to receive the SRB under ALCOAST 184/99. Absent strong evidence to the contrary, Coast Guard officials are "presumed to have executed their duties correctly, lawfully, and in good faith." See *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

8. There is no page 7 in the applicant's record documenting SRB counseling, as required by Section 2 of COMDTINST 7220.33. There is also no page 7 documenting counseling about the applicant's obligated service requirement upon accepting his PCS orders, as required under Article 4.B.1.i.1.b. of the Personnel Manual. Although the applicant acknowledged being counseled about SRBs when he signed the extension contract on June 14, 2000, none of the information he acknowledged receiving expressly stated that he was allowed to reenlist. Moreover, the contract clearly shows that the applicant was advised that SRB information was completely inapplicable to his situation. Because ALCOAST 184/99 authorized a Zone B SRB with a multiple of one-half for his rating with a maximum payment of \$45,000, the use of "NA" on the contract was misleading and erroneous. For a member who does not obligate sufficient service to earn an SRB for which he is eligible, only the last blank in the SRB paragraph of the contract—in the sentence "[m]y SRB will be computed based on \_\_\_\_ months newly obligated service"—should logically contain "NA," or better yet a zero.

9. The Board finds that the preponderance of the evidence indicates that the applicant was miscounseled by his unit's yeoman about his eligibility to reenlist and receive a Zone B SRB under ALCOAST 184/99. In addition, the Board finds that if he had been properly counseled, he would have reenlisted for six years to receive the SRB.

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

ORDER

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

His record shall be corrected to show that he was discharged and reenlisted for six years on June 14, 2000, to obligate sufficient service to accept PCS orders and to receive a Zone B SRB with a multiple of one-half under ALCOAST 184/99.

The one-month extension contract that he signed on June 14, 2000, and the eleven-month extension contract that he signed on February 16, 2001, shall be null and void.

The Coast Guard shall pay the applicant the amount due him under ALCOAST 184/99 as a result of this correction.

