

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

Application for Correction of
Coast Guard Record of:



BCMR Docket
No. 2001-055

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 March 8, 2001, upon the Board's receipt of the applicant's complete application for correction of his military record.

This final decision, dated May 17, 2001, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a chief machinery technician (MKC; pay grade E-7), asked the Board to correct his record to show that he extended his enlistment under ALDIST 004/82 so that he would be eligible to receive a Zone A Selective Reenlistment Bonus (SRB), with a multiple of 4. He further requested that his record be corrected to show that he extended his enlistment a second time under ALDIST 004/82, so that he would be eligible to receive a Zone B selective reenlistment bonus (SRB) with a multiple of 3. He claimed that he was not counseled regarding his SRB eligibility pursuant to this ALDIST. The applicant stated that if he had been counseled he would have extended his enlistment under ALDIST 004/82, "to lock in early to secure a higher [SRB] multiple."

The applicant enlisted in the Coast Guard for four years on June 11, 1979. He extended this enlistment for four years on June 11, 1983. He received a Zone A SRB with a multiple of one based on this four-year extension. The applicant has served on active duty continually since his original enlistment.

Views of the Coast Guard

The Chief Counsel of the Coast Guard recommended that the applicant be granted relief consistent with that granted in BCMR No. 1999-022. He stated that this case is analogous to the fact pattern in that case, wherein the Deputy General Counsel approved a grant of relief, finding that the Coast Guard had failed to counsel the applicant about this SRB opportunity. The applicant's military record does not contain an administrative remarks (page 7) entry showing that he was counseled on his SRB eligibility during 1981 or 1982. The Chief Counsel noted that although the applicant was asking for both a Zone A and a Zone B SRB, he appeared to be entitled only to a Zone A SRB.

APPLICABLE REGULATIONS

ALDIST 340/81

ALDIST 340/81, issued on October 2, 1981, authorized a multiple of four for a member of the MK rating in Zone A and a multiple of 3 for a member of the MK rating in Zone B. These multiples were canceled on February 15, 1982 by ALDIST 004/82.

ALDIST 003/82

ALDIST 003/82, issued on January 8, 1982, implemented tougher standards for members desiring to reenlist or extend. This ALDIST stated as follows:

Effectively immediately, the standards for assignment of the reenlistment eligibility code (RE-R1), recommended for preferred reenlistment, as specified in [the Coast Guard Personnel Manual], are upgraded . . . to 3.6 [proficiency], 3.6 [leadership], [and] 3.9 [conduct].

Members meeting these revised standards for preferred reenlistment . . . may reenlist/extend at their option for up to six (06) years. Members who do not meet the preferred reenlistment standards but who remain eligible for enlistment/extension . . . [by at least having the following marks] 3.3 [in proficiency], 3.3 [in leadership], [and] 3.8 [in conduct] . . . may be authorized to reenlist/extend for a period not to exceed 4 years as determined by their commanding officer.

[The applicant's marks on December 31, 1981 were 3.5 in proficiency, 3.46 in leadership, and 4.0 in conduct].

ALDIST 004/82

ALDIST 004/82, issued on January 12, 1982, authorized the multiples under 340/81 until February 15, 1982. It also suspended the provisions of Article 1-G-83 of the Personnel Manual (Execution of Agreement to Extend Enlistment) until February 15, 1982, and therefore allowed members to extend enlistments who were not within 30 days of the expiration of their enlistments.

This ALDIST further stated that Reference E (ALDSIT 003/82) "directed that new reenlistment standards be implemented and has presented [the Commandant's] firm commitment to reward superior performance to the extent that [the Commandant] can do so. Under these new guidelines, the consistently high performer can reenlist or extend to a maximum of six (06) years. The satisfactory performer can be permitted to reenlist or extend to a maximum of four (04) years, and the substandard performer cannot reenlist or extend at all."

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's submissions, the Coast Guard's submission, the applicant's military record and applicable law:

1. The Board has jurisdiction concerning this matter under section 1552 of title 10, United States Code. The application was timely under Detweiler v. Pena, 38 F. 3d.591 (D.C. Cir. 1994).

2. The applicant was eligible, under ALDIST 003/82, to extend his enlistment for up to four years from the end of his then-current enlistment in 1983 to June 10, 1987, to obtain a Zone A SRB under ALDIST 004/82. Under ALDISTs 003/82 and 004/82, he was not eligible to extend or reenlist for the maximum six year period because he did not have the necessary marks in proficiency and leadership.

3. The applicant suggests that the Coast Guard had a duty to advise him that he could possibly have obtained both a Zone A and a Zone B SRB by extending once and then a second time, during the approximate 4-week period that 004/82 was in effect. This is a far reach. He has presented no evidence that this was the intent of the Commandant, nor has he presented any evidence that his personnel reporting unit should have known from a plain reading of ALDIST 004/82 of the existence of the alleged remote possibility of receiving both a Zone A and a Zone B SRB, such that they could have been expected to counsel him on it.

4. Moreover, in Docket No. 103-97, a similar case, the Deputy General Counsel ruled that neither that applicant nor the record showed that "ALDIST 004/82, COMDTINST 7220.13E, any Coast Guard regulation, directive or policy statement requires Coast Guard Personnel specialists or the command to inform members that they are eligible for both Zone A and Zone B SRBs. . . ." In addition, she stated that the applicant in that case had not shown that "regardless of any written directives, Coast Guard Personnel specialists or the command were aware that applicants . . . might have been eligible for both Zone A and Zone B SRBs." She also stated that that applicant had not shown that others similarly situated were counseled on – or received – both Zone A and Zone B SRBs in 1982. The Deputy General Counsel denied relief in Docket No. 103-97 finding that the Coast Guard had committed neither an error nor an injustice in not counseling applicant with regard to a possible collection of both a Zone A and Zone B SRB under 004/82. Therefore, based on the Deputy General Counsel's ruling in BCMR No. 103-97, the Board finds that the Coast Guard did not commit an error or injustice by not counseling the applicant about the remote possibility of retaining both a Zone A and a Zone B SRB under 004/82.

5. The applicant's request for a Zone B SRB under ALDIST 004/82 should also be denied because he was not authorized to reenlist/extend for a long enough period of time that would allow him to qualify for two separate SRBs. To qualify for an SRB, a reenlistment or extension must be for a period of three years. If the applicant could only have extended or reenlisted for a maximum period of four year under 004/82, it is mathematically impossible for him to carve

from this authorized maximum four year reenlistment/extension period, two separate three year extensions that would have qualified him for a Zone A and a Zone B SRB. ALDIST 004/82 was in effect only between January 12 and February 14, 1982.

6. Therefore, the Board finds that the applicant was entitled to extend his enlistment for a maximum period of four years under 004/82 to obtain a Zone A SRB. The Coast Guard erred by not counseling the applicant about his eligibility for a Zone A SRB under ALDIST 004/82.

7. The SRB regulation permits only one Zone A SRB per member. See section 1.d.(1)(d) of Enclosure (1) to COMDTINST 7220.13E. The Zone A SRB payment (with a multiple of one) the applicant received in 1983 will be deducted from the payment he will receive as a result of this correction to his record.

