

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2002-146

[REDACTED]
[REDACTED]

FINAL DECISION

[REDACTED] Deputy Chair:

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The BCMR docketed the applicant's request for correction on July 24, 2002.

This final decision, dated May 22, 2003, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to order the Coast Guard to pay him the Zone A selective reenlistment bonus (SRB)¹ that he was promised when he integrated from the Reserve into the regular Coast Guard on July 1, 2002. He alleged that, before he signed his enlistment contract, he asked whether he was eligible for an SRB and was told by a petty officer (PO Y), that he would receive one because an SRB multiple was in effect for his rating under ALCOAST 585/01. However, after he reenlisted, he was told that he was not qualified for the SRB and would not receive one.

¹ SRBs vary according to the length of each member's active duty service, the number of months of service newly obligated by the reenlistment or extension of enlistment, and the need of the Coast Guard for personnel with the member's particular skills, which is reflected in the "multiple" of the SRB authorized for the member's skill/rating, which is published in an ALCOAST. Coast Guard members who have at least 21 months but no more than 6 years of active duty service are in "Zone A." Members who have completed at least 6 years but no more than 10 years of active duty service are in "Zone B." Members may not receive more than one bonus per zone. COMDTINST 7220.33.

SUMMARY OF THE RECORD

On November 17, 1992, the applicant enlisted in the Coast Guard Reserve for eight years under the Delayed Entry Program. On February 9, 1993, he was discharged from the Reserve and enlisted in the regular Coast Guard for four years. He was released from active duty into the Reserve upon completion of his four-year contract on February 8, 1997. On November 17, 2000, the end of his original eight-year Reserve obligation, the applicant reenlisted in the Reserve for four years, through November 16, 2004.

On September 12, 2001, following the terrorist attacks in New York and Washington, the applicant was recalled to active duty for a term of one year. He returned to active duty on September 14, 2001. On May 1, 2002, the applicant asked to be integrated into the regular Coast Guard at the end of his extended active duty contract. His request was strongly endorsed by his command.

On June 26, 2002, the Coast Guard Personnel Command (CGPC) issued orders granting the applicant's command authority to reenlist the applicant in the regular Coast Guard on July 1, 2002, provided he met the physical standards. On the same day, the applicant's command had him sign an Administrative Remarks form CG-3307 ("page 7") stating that he was eligible for an SRB with a multiple of 2 in accordance with ALCOAST 585/01, that he could reenlist for up to six years, but that since he was choosing to reenlist for four years, his SRB would be based on 48 months of newly obligated service.

On July 1, 2002, the applicant was discharged from active duty in the Reserve and reenlisted in the regular Coast Guard for four years. On July 9, 2002, his unit's personnel reporting unit (PERSRU) reported to his command that "we were told when we first got word that [the applicant] was going to be accessed into the CG that he was entitled to a Zone A SRB multiple of 2. ([PO Y] at HRSIC [the Human Resources Service and Information Center] confirmed that—but is now saying she was wrong)." The PERSRU stated that PO Y suggested that the applicant apply to the BCMR.

On July 11, 2002, another PERSRU sent the applicant's PERSRU and HRSIC an email message stating that she had been informed that the applicant was not eligible for an SRB because he did not have a total of 12 months of active duty immediately prior to his reenlistment. She suggested that the applicant's date of reenlistment be changed to September 14, 2002, the date he would have been released from active duty if he had not integrated on July 1, 2002.

On July 12, 2002, HRSIC responded, stating that the applicant's request for integration had been approved in accordance with the Lateral Entry Program and ALCOAST 080/02 and that his integration could not be deleted. HRSIC stated that the

applicant was not entitled to the SRB because he had been discharged from his original enlistment prior to 1999 and ALCOAST 080/02 did not waive the requirements of Article 1.G. of the Personnel Manual and Chapter 3.C.10 of HRSINST M1000.2 (series). Those regulations provide that "Reserve members serving on extended [active duty] of 12 months or more may be authorized to enlist in the regular CG if they meet eligibility requirements." Since the applicant had been on extended active duty for only 9 months and 17 days when he reenlisted, HRSIC stated, he was ineligible for an SRB. Furthermore, HRSIC stated that the applicant was also ineligible for the SRB under the terms of paragraph 2.a. of ALCOAST 132/02 and under the terms of the SRB Instruction, COMDTINST 7220.33, which requires a member to reenlist within three months of discharge to receive an SRB.

VIEWS OF THE COAST GUARD

On April 25, 2003, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request.²

The Chief Counsel stated that the "Coast Guard concedes that this Applicant met the eligibility criteria for an SRB at the time he reenlisted on 1 July, 2002." The Chief Counsel stated that the applicant was eligible for the SRB because he "reenlisted within 3 months after the end of his enlistment/date after separation from active duty and also completed 21 months continuous active duty at the time of reenlistment" in accordance with the provisions of COMDTINST 7220.33.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 28, 2003, the BCMR sent the applicant a copy of the views of the Coast Guard by fax and invited him to respond. He responded the same day, stating that he agreed with the Chief Counsel's recommendation.

APPLICABLE REGULATIONS

Article 1.G.1.a. of the Personnel Manual defines reenlistment on active duty as follows:

The enlistment of any person who has previously served in the Regular Coast Guard shall be considered a reenlistment. The enlistment of Coast Guard Reserve personnel who are serving on extended active duty and who have served on extended active duty of 12 months or more shall be considered a reenlistment.

Article 1.G.5. of the Personnel Manual states that to be eligible for reenlistment in the regular Coast Guard, "Reserve personnel serving on extended active duty are required to submit a letter request for reenlistment to Commander (CGPC-epm) via chain of command. Commander (CGPC-epm) approval is required prior to reenlistment."

Paragraph 3.a. of Enclosure (1) to the SRB Instruction, COMDTINST 7220.33, provides the following eligibility criteria for a Zone A SRB:

- (1) Reenlist not later than 3 months after discharge or release from active duty in a rating authorized an SRB multiple.
- (2) Have completed 21 months continuous active duty (including extended active duty as a Reserve) at any point in their military career. The 21 months continuous active

² This recommendation came in a supplemental advisory opinion submitted by the Chief Counsel upon further review of the merits of the applicant's claim. The Chief Counsel's original advisory opinion was submitted on November 29, 2002.

duty need not have been completed immediately prior to the reenlistment or extension.

- (3) Have completed not more than six years active service on the date of reenlistment or the date on which the extension becomes operative.
- (4) Be serving in pay grade E-3 (with appropriate designator), or higher, on active duty in a rating that is designated as eligible for an SRB multiple.
- (5) Reenlist or extend enlistment in the Regular Coast Guard for a period of at least 3 full years.
- (6) Have not previously received a Zone A SRB.
- (7) Attain eligibility prior to the effective date of termination of award for any particular rating.
- (8) Meet any additional eligibility criteria the Commandant may prescribe.

On July 1, 2002, when the applicant reenlisted, ALCOAST 585/01 was in effect, authorizing a Zone A SRB calculated with a multiple of 2 for boatswain's mates second class (BM2s) who reenlisted or extended their enlistments for at least three years.

Under ALCOAST 080/02, issued in February 2002, the Commandant expanded the Lateral Entry Program to facilitate the integration of Reservists who had been discharged from active duty during the previous three years (since January 31, 1999). Under ALCOAST 132/02, issued in March 2002, members entering under the Lateral Entry Program "may be entitled to receive [an SRB] provided they reenlist within 90 days from their active duty separation date. Other personnel may be entitled to an enlistment bonus provided they have not been serving on active duty within the last 91 days."

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 over this matter pursuant to the provisions of 10 U.S.C. § 1552. The application was timely.

2. The record indicates that when the applicant reenlisted on July 1, 2002, he met all of the eligibility criteria for a Zone A SRB under COMDTINST 7220.33 and ALCOAST 585/01. In accordance with paragraph 3.a. of Enclosure (1) to the SRB Instruction, on July 1, 2002, the applicant

- (1) reenlisted within three months (in fact, immediately) after having been discharged from active duty;
- (2) had previously completed more than twenty-one months (in fact, four years) of continuous active duty at some point in his military career;
- (3) had completed less than six years of active duty;

- (4) was serving as a BM2/E-5, which was a rating designated as eligible for an SRB multiple under ALCOAST 585/01;
- (5) reenlisted for at least three full years (he reenlisted for four years);
- (6) had not previously received a Zone A SRB; and
- (7) attained eligibility prior to the termination date of the multiple for his rating.
- (8) Furthermore, no other eligibility criteria for BM2s had been prescribed by the Commandant.

3. Although the applicant was discharged from extended active duty in the Reserve immediately before reenlisting on July 1, 2002, rather than from active duty in the regular Coast Guard, no provision of COMDTINST 7220.33 or the Personnel Manual states or even suggests that being discharged from active duty as a Reservist does not meet the criterion in paragraph 3.a.(1) of Enclosure (1) to the SRB Instruction.

4. Under Article 1.G.1.a. of the Personnel Manual, the applicant's July 1, 2002, contract was clearly a reenlistment contract since he had previously served in the regular Coast Guard for four years. Given the plain meaning and effect of the first sentence of the article, the second sentence—which states that a reservist serving on extended active duty for at least 12 months who joins the regular Coast Guard shall be considered to have reenlisted—clearly applies only to reservists who have never before served in the regular Coast Guard.

5. HRSIC apparently denied the applicant his SRB (1) because he was accessed under the Lateral Entry Program even though he had not been discharged from the regular Coast Guard since January 1999, as required under ALCOAST 080/02 and (2) because HRSIC interprets the second sentence of Article 1.G.1.a. of the Personnel Manual to mean that the applicant did not reenlist on July 1, 2002, because he had not been serving on extended active duty for at least 12 months. However, regardless of what authority the Coast Guard used to reenlist the applicant in the regular Coast Guard, the fact is that under the plain meaning of Article 1.G.1.a., the Coast Guard did reenlist him and he did meet all of the extant eligibility criteria for a Zone A SRB under ALCOAST 585/01, COMDTINST 7220.33, and the Personnel Manual.

6. Accordingly, the Board agrees with the Chief Counsel of the Coast Guard that relief should be granted.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of [REDACTED] USCG, for correction of his military record is granted as follows:

The Coast Guard shall correct his record to show that he reenlisted for four years on July 1, 2002, and is legally entitled to a Zone A SRB under ALCOAST 585/01 as a result of his reenlistment because he met all of the eligibility criteria provided in ALCOAST 585/01, COMDTINST 7220.33, and the Personnel Manual.

The Coast Guard shall pay him the amount he is due under ALCOAST 585/01 as a result of this correction.

