

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2003-001**



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**FINAL DECISION**

 **Deputy Chair:**

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 October 7, 2002, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated June 19, 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 correct his military record to make him entitled to a full Zone A selective reenlistment bonus (SRB)<sup>1</sup> based on his pay grade as an MK2, rather than a partial SRB reduced by previously obligated service under an extension contract. He alleged that when he signed an extension contract on March 22, 2002, to obligate sufficient service to accept his transfer orders, he was advised that he could cancel it before it became operative on January 11, 2003, and reenlist to receive a maximum SRB. However, he later learned that he could not cancel the extension contract and that the months of service he had obligated would count against any SRB he received for reenlisting.

In support of his allegations, the applicant submitted a memorandum from a chief warrant officer at his unit, who stated that his office incorrectly counseled the

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<sup>1</sup> 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 contract, 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." COMDTINST 7220.33.

applicant that he could cancel his extension contract, regardless of its length, before it became operative to receive a full SRB.

### SUMMARY OF THE RECORD

On January 11, 1999, the applicant enlisted in the Coast Guard for a term of four years, through January 10, 2003. In March 2002, the applicant received transfer orders to the Marine Safety Office in Honolulu. To accept the transfer orders, he signed an extension contract for an additional two years and six months of service, obligating him to serve from January 11, 2003, through July 10, 2005. When he signed the extension contract, the applicant was an MK3 awaiting advancement to MK2.

On June 28, 2002, the applicant reported to his new station in Honolulu. On July 1, 2002, he was advanced from MK3 to MK2. The extension contract went into effect on January 11, 2003.

### APPLICABLE REGULATIONS

Article 1.G.14.a.2. of the Personnel Manual provides that a member may extend his reenlistment “[f]or any number of full years and/or full months up to six years to ensure sufficient obligated service [OBLISERV] for these purposes: ... c. INCONUS and OUTCONUS assignments; [see] Article 4.B.6.”

Article 4.B.6.a.1. of the Personnel Manual provides that members with less than six years of active duty will not normally be transferred “unless they reenlist or extend to have enough obligated service for a full tour on reporting to a new unit.” Article 4.B.6.b. provides that the transfer orders of a member who refuses to meet the OBLISERV requirement may be canceled, and the member will be reassigned for the remainder of his enlistment in accordance with the needs of the Coast Guard.

Article 4.A.5.b. of the Personnel Manual provides that the tour length for an enlisted member assigned to any shore unit on Oahu is four years. The tour length for shore units on the other islands of Hawaii is three years.

Article 2 of Commandant Instruction 7220.33 (the SRB Instruction) 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.” The page 7 that members must sign normally states the amount of newly obligated service upon which their SRBs will be based.

Paragraph 3.d.(6) of Enclosure (1) to the SRB Instruction and Article 1.G.19.2.b. of the Personnel Manual provide that extension contracts for terms of two years or less may be canceled prior to their operative dates to allow the member to sign a new,

longer extension or reenlistment contract to receive an SRB. A canceled short extension contract executed to fulfill an OBLISERV requirement does not diminish the size of the SRB received under the new contract.

Paragraph 3.d.(13) of Enclosure (1) to the SRB Instruction states that when a member reenlists before finishing his previous contract term, “[a]ll periods of unexecuted service obligation ... will be deducted from SRB computation.”

ALCOAST 585/01 was issued on December 20, 2001, and was in effect from February 1 through August 4, 2002. It established SRB multiples for personnel in certain skill ratings who reenlisted or extended their enlistments for at least three years and up to six years. Under ALCOAST 585/01, members who were MK2s (but not MK3s) were eligible for a Zone A SRB calculated with a multiple of two.

### **VIEWS OF THE COAST GUARD**

On February 28, 2003, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant relief by voiding the March 22, 2002, extension contract and reenlisting him on July 2, 2002, after his advancement to MK2, to qualify him for a Zone A SRB.

The Chief Counsel compared this applicant’s case to those of the applicants in BCMR docket numbers 2002-116 and 2002-168<sup>2</sup> and stated that the record supports the applicant’s allegation of erroneous counseling.

### **APPLICANT’S RESPONSE TO THE COAST GUARD’S VIEWS**

On February 28, 2003, the BCMR sent the applicant a copy of the Chief Counsel’s advisory opinion and invited him to respond. On March 18, 2003, the applicant responded, stating that he agreed with the Chief Counsel’s recommendation.

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<sup>2</sup> In BCMR Dkt. No. 2002-116, the applicant asked the Board to correct the date of an extension contract from February 20, 2002 (when he was a TC3), to April 2, 2002 (after he was advanced to TC2), so that he would receive the Zone A selective reenlistment bonus (SRB) that he earned for that contract based on the higher multiple that was in effect for TC2s under ALCOAST 585/01. He alleged that if he had been properly counseled, he would have waited to sign the contract until after he was advanced. He signed the contract upon receiving transfer orders that required him to obligate additional service before accepting the orders and reporting to his new unit in July 2002.

The Chief Counsel of the Coast Guard recommended that the Board grant relief because the applicant was awaiting advancement to TC2 in February 2002 and did not need to sign his extension contract immediately in order to accept the orders to transfer in July. The Board granted relief, agreeing with the Chief Counsel that the applicant could have waited until April 2, 2002, to sign the contract to obligate sufficient service to accept his transfer orders.

In BCMR Dkt. No. 2002-168, the facts are essentially identical to those in Dkt. No. 2002-116, and the Chief Counsel’s recommendation was the same. The Board granted the requested relief.

## 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 10 U.S.C. § 1552. The application was timely.

2. When the applicant received transfer orders in March 2002, he was required to obligate sufficient service to complete a full tour of duty at his new station in Honolulu before he could accept the orders. Personnel Manual, Article 4.B.6.a.2. Under Article 4.A.5.b. of the Personnel Manual, a tour length at a shore unit on Oahu is supposed to be four years. The applicant's report date was June 28, 2002. Therefore, to comply with regulations, he should have been required to extend his contract for three years and six months, through July 10, 2006. However, his command only required him to extend his service through July 10, 2005.

3. Since his report date was June 28, 2002, the applicant was required, by or before that date, to have obligated sufficient service for the tour in Honolulu. He was not advanced to MK2 until July 1, 2002. Therefore, he had to sign the extension contract while still an MK3. Under ALCOAST 585/01, MK3s were not eligible for an SRB. Moreover, even if the applicant had managed to delay his report date until after his advancement on July 1, there is no evidence in the record that the Coast Guard Personnel Command would have allowed him to wait from mid March until just before his transfer in July to meet the OBLISERV requirement to accept the transfer orders. Such transfers require significant administrative preparations.

4. The applicant has presented evidence to show that he was counseled that he could cancel the two-year, six-month extension before it became operative on January 11, 2003, to reenlist for a full SRB. There is no page 7 in his record documenting proper SRB counseling, as required by the SRB Instruction. However, when an applicant proves that he has received improper SRB counseling, the Board's policy is not to fulfill the erroneous promises made by the applicant's command, but to return the applicant to the position he would have been in had he been properly counseled.

5. If the applicant had been properly counseled in March 2002, he would have been told that, under Article 4.B.6.a.2. of the Personnel Manual, before accepting his transfer orders and reporting to his new unit on June 28, 2002, he had to obligate sufficient service to complete a full four-year tour. In addition, he would have been advised that because the extension contract he would have to sign to accept the tour in Honolulu was for more than two years' duration, under paragraph 3.d.(6) of Enclosure

(1) to the SRB Instruction and Article 1.G.19.2.b. of the Personnel Manual, he could not cancel it before it became operative to receive an SRB without having his SRB reduced in accordance with paragraph 3.d.(13) of Enclosure (1) to the SRB Instruction.

6. Although the Chief Counsel recommended correcting the applicant's record to show that he extended his contract as an MK2 on July 2, 2002, such a correction would ignore the OBLISERV requirement under Article 4.B.6.a.1. of the Personnel Manual. There is no evidence in the record that in March 2002, the applicant's command or the Personnel Command would have ignored this long-standing regulation. Moreover, this applicant's case is very different from the cases in BCMR docket numbers 2002-116 and 2002-168. In both of those cases, the applicants were promoted to the higher rating soon after they received their transfer orders and long before they had to report to their new stations.

7. Although under Article 4.A.5.b. of the Personnel Manual, the applicant should have been required to extend his enlistment for three years and six months, instead of two years and six months, to accept his transfer orders to the Marine Safety Office in Honolulu, correcting his record to accord with the regulation would not benefit him as it would increase the amount of his obligated service and therefore might reduce any SRB for which he might be eligible on his sixth active duty anniversary, January 11, 2005.

8. Accordingly, the applicant's request should be denied.

**[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]**

ORDER

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

