

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2003-104

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

FINAL DECISION

████████████████████

This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on June 23, 2003, upon receipt of the completed application.

This final decision, dated February 18, 2004, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, currently a xxxxxxxxxxxxxxxxxxxx, asked the Board to correct his record to show that on March 24, 2000, when he was still a xxxxxxxxx xxxxxx xxxxx xxxxxx, he extended his then current enlistment for 36 months instead of 30 months. The correction would entitle him to receive a Zone A selective reenlistment bonus (SRB)¹ pursuant to ALCOAST 184/99.

APPLICANT'S ALLEGATIONS

The applicant stated that in March 2000, after he applied for a change in rating from XX to XX, he received transfer orders and was told that he had to obligate sufficient service to transfer to another unit to accept the orders. He alleged that he was advised by his command that, because he was changing ratings, he was ineligible for

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 up to 6 on active duty are in "Zone A." Members may only receive one SRB per zone. Under paragraph 3.b.(5) of Enclosure (1) to COMDTINST 7220.33, SRBs are payable only to members who extend their enlistments or reenlist for at least three years (36 months).

the Zone A SRB that was authorized for members in the XX rating at the time under ALCOAST 184/99.² Therefore, he extended his enlistment for only 30 months, which was the minimum amount of additional service that he had to obligate in order to accept his transfer orders and avoid discharge.³

The applicant alleged that he should have been advised and allowed to extend his service for 36 months to receive the SRB. He pointed out that after his 30-month extension became operative, he served as an FS2 for five months before his rating change went into effect. He alleged that he should have been allowed to sign a 36-month extension contract and earn the SRB for at least those five months.

As evidence of the alleged miscounseling, the applicant pointed out that the extension contract he signed bears entries of "NA," or not applicable, regarding his eligibility for an SRB.

SUMMARY OF THE RECORD

On February 4, 1997, the applicant enlisted in the Coast Guard for a term of four years, through February 3, 2001. Following basic training, he attended XX "A" School to train for the XX rating until July 22, 1997, when he was transferred to a cutter. On January 18, 1998, he was advanced to XX3.

In March 2000, after applying to attend XX "A" School, the applicant received orders to transfer to a shore unit in July 2000. Because he had less than six years of service at the time, he was required to obligate sufficient service to complete a full three-year tour of duty at the new unit before accepting the orders.⁴ On March 7, 2000, he signed an administrative entry ("page 7")⁵ for his record, stating the following:

I have been advised that my current Selective Reenlistment Bonus (SRB) multiple is 3 and is listed in ALCOAST 184/99, which has been made available to me.

² ALCOAST 184/99 authorized a Zone A SRB calculated with a multiple of 3 for members in the XX rating who reenlisted or extended their enlistments between January 1 and June 30, 2000, but no SRB was authorized for members in the XX rating. The only SRB authorized for members in the XX rating in the past ten years was authorized from October 2, 1001, to January 31, 2002, under ALCOAST 127/01. However, under no provision of the Personnel Manual was the applicant authorized to reenlist or extend his enlistment during this period.

³ Paragraph 3.a.d.(5) of Enclosure (1) to COMDTINST 7220.33 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."

⁴ Article 4.B.6. of the Personnel Manual requires petty officers with less than 6 years of active service to obligate sufficient service to complete a full tour of duty prior to accepting transfer orders to a new unit. Under Article 4.A.5., the tour length for an XX at the applicant's new unit was 3 years.

⁵ 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."

I do not desire to reenlist/extend my enlistment for 36 months which would make me eligible for a Selective Reenlistment Bonus (SRB).

I hereby acknowledge that I have read and fully understand the contents and explanation of COMDTINST 7220.33.

On March 24, 2000, the applicant signed a 30-month extension contract, thereby extending his enlistment from February 4, 2001, through August 3, 2003, so that he would have sufficient service to complete a three-year tour of duty upon transferring to his new unit in July 2000. The extension contract he signed includes the following paragraphs:

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 understand that continued entitlement to unpaid installments may be terminated and a prorated portion of advance bonus payments recouped if I am considered not to be technically qualified or unable to perform the duties of the rating for which the bonus was paid, in accordance with the provisions of COMDTINST 7220.33 (series). 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.

On April 1, 2000, while still serving on the cutter, the applicant was advanced to XX2. On July 21, 2000, he transferred to his new unit ashore.

On February 4, 2001, the applicant's 30-month extension contract became operative. On April 14, 2001, he began attending XX "A" School to qualify for the change in rating. On July 13, 2001, the applicant graduated from "A" School and became a XX3. Thereafter, he was assigned to a xxxxxxxxxxxx, and on June 1, 2003, he was advanced to XX2. Upon the termination of his extension, the applicant voluntarily extended his enlistment for another two years, through August 3, 2005.

VIEWS OF THE COAST GUARD

On October 30, 2003, the Judge Advocate General of the Coast Guard recommended that the Board deny the applicant's request.

The Judge Advocate General argued that the page 7 that the applicant signed on March 7, 2000, indicates that he was accurately counseled about his SRB eligibility and that he “consciously chose not to reenlist/extend enlistment for the 36 months minimum that would have made him eligible for an SRB.”

The Judge Advocate General argued that the applicant’s “argument that his [extension contract] ‘clearly’ shows that he was incorrectly counseled because it lists [NA] as the SRB for which he was eligible is misplaced. Applicant chose to extend for less than 36 months, the minimum required to be eligible for an SRB. ... Therefore, the [extension contract] in question was filled out *correctly* and in accordance with the instructions for completing the form.”

APPLICANT’S RESPONSE TO THE COAST GUARD’S VIEWS

On November 3, 2003, the BCMR sent the applicant a copy of the Judge Advocate General’s recommendation and invited him to respond within 30 days. No response was received.

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. The applicant alleged that he was not properly counseled about his eligibility for an SRB prior to accepting his PCS orders in March 2000. He alleged that he was told that because he had applied for XX “A” School, he was not allowed to extend his enlistment for 36 months to receive an SRB under ALCOAST 184/99. Under COMDTINST 7220.33, members are entitled to accurate SRB counseling whenever they reenlist or extend an enlistment. If the applicant had extended his enlistment for 36 months in March 2000, he would ultimately have received a pro-rated portion of the SRB authorized for members in the XX rating for the number of months he served on the extension contract as an XX.
3. The applicant’s record, however, contains a page 7 documenting accurate counseling about his eligibility for the SRB. The page 7 expressly states that the applicant was told he could extend his contract for 36 months to get the SRB but voluntarily declined to do so. The page 7 was signed by the applicant before he signed the extension contract. The Board notes that, at the time, the applicant was apparently dissatisfied with his career in the XX rating and had requested a change in rating.

4. The applicant pointed out that the paragraphs concerning SRB eligibility in his extension contract are completed with "NA," or not applicable, in the blanks. In light of the accuracy of the counseling documented on the page 7, however, and the fact that the applicant was not extending his enlistment for sufficient time to be eligible for an SRB, the Board is not persuaded that the NAs on the extension contract support the applicant's allegation that he was miscounseled. The applicant has not submitted any evidence from his prior command to support his allegation that he was not allowed to extend his contract for more than 30 months.

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

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is denied.

