


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-149

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

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 July 7, 2004, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated February 10, 2005, 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 by voiding his 5-year reenlistment contract and replacing it with a 6-year reenlistment contract. He alleged that he was erroneously counseled about the amount of the selective reenlistment bonus (SRB)¹ he would receive for reenlisting in the Coast Guard.

SUMMARY OF THE APPLICANT'S RECORD

On October 9, 2001, the applicant enlisted in the Coast Guard as a Boatswain's Mate, third class (BM3) for a term of 4 years, through October 8, 2005. On June 8, 2004, the applicant signed a 5-year reenlistment contract, through June 7, 2009, to obligate service for transfer. The applicant signed an administrative remarks (page 7) on June 8, 2004, which stated the following:

I have been advised that my current [SRB] multiple is 1 and is listed in ALCOAST 182/03, which has been made available to me.

I am eligible to reenlist up to a maximum of 6 years. My SRB will be computed based on 56 months of newly obligated service.

¹ SRBs allow the Coast Guard to offer a reenlistment incentive to members who possess highly desired skills at certain points during their career. 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. Personnel Manual, Article 3.C.1.

I hereby acknowledge that I have read and fully understand the contents and explanation of COMDINST 7220.133 (series).

VIEWS OF THE COAST GUARD

On November 15, 2004, the Judge Advocate General (TJAG) of the Coast Guard recommended that the Board deny the applicant's request. TJAG alleged that the applicant failed to carry his burden of production and persuasion and offered no evidence to support his claim that he was improperly counseled regarding his SRB entitlements. TJAG also alleged that the applicant was properly counseled regarding his SRB and was given the appropriate page 7 to document the counseling.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 19, 2004, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within thirty days. No response was received.

APPLICABLE REGULATIONS

Article 3.C.3. of the Coast Guard Personnel Manual (Written Agreements) states that "[a]ll personnel with 10 years or less of active service who reenlist or extend for any period, however brief, shall be counseled on the SRB program. They shall sign an Administrative Remarks, CG 3301 (page 7), service record entry outlining the effect that particular action has on their SRB entitlement."

Article 3.C.5.1. of the Personnel Manual 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 182/03 was issued by the Commandant on April 24, 2003, and was in effect from July 1, 2003, through July 31, 2004. Under ALCOAST 182/03, BM3s were eligible for a Zone A SRB calculated with a multiple of 1.

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 submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.

2. On June 8, 2004, the applicant signed a 5-year reenlistment contract to obligate service for transfer to Coast Guard Station Southwest Harbor, Maine, in accordance with Article 4.B.6.a.1. He was counseled that pursuant to ALCOAST 182/03, he would receive a Zone A SRB calculated with 56 months of newly obligated service. However, the counseling was in error because the amount of previously obligated service to be subtracted from the SRB was improperly calculated. When the

applicant signed the reenlistment contract on June 8, 2004, his previous end of enlistment (EOE) date was October 8, 2005. Therefore, when he signed the 5-year reenlistment contract on June 8, 2004, the applicant had 16 months of previously obligated service remaining on his original enlistment contract, and he should have been counseled that pursuant to Article 3.C.5.1., his SRB would be computed with 44 months of newly obligated service, and not 56 months as shown on the page 7 in his record.

4. The applicant has proved by a preponderance of the evidence that he was improperly counseled regarding his eligibility for a Zone A SRB. If the applicant had been properly counseled, he would have been told that, to receive an SRB based on at least 56 months of obligated service, he would have to reenlist for 6 years instead of 5.

5. The Board finds that if the applicant had been properly counseled on June 8, 2004, he likely would have reenlisted for 6 years to receive the larger SRB he was promised.

6. Accordingly, relief should be granted in accordance with the findings above.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

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

The term of the June 8, 2004, reenlistment contract in his record shall be 6 years instead of 5 years. The Coast Guard shall pay the applicant any amount due under ALCOAST 182/03 as a result of this correction.

