


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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-193

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 September 24, 2004, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated May 19, 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 to show that he enlisted in the Regular Coast Guard on November 3, 1998, for four years, rather than six, and then reenlisted on November 3, 2002, for six years, to receive a Zone A SRB. The applicant alleged that his Coast Guard records erroneously indicate that he enlisted for six years on November 3, 1998.

SUMMARY OF THE APPLICANT'S RECORD

The applicant enlisted in the Coast Guard Reserve on April 20, 1998, for a period of eight years under the Delayed Entry/Enlistment Program (DEP).¹ The enlistment contract, DD Form 4/1, states that the applicant would be ordered to active duty as a reservist, unless he enlisted in the Regular Coast Guard prior to November 24, 1998, for a term of at least six years

¹ The DEP allows recruits to enlist in the Coast Guard but postpone training for up to 365 days.

On November 3, 1998, the applicant was discharged from the DEP and immediately enlisted into the Regular Coast Guard. The applicant's contract, DD Form 4/3, indicates in Block 20a that he was requesting "to be discharged from the DEP and enlisted in the Regular Component of the Coast Guard for a period of 4 years." The applicant did not sign this particular section of the contract. However, his signature does appear at the bottom of the contract, confirming the enlistment. The applicant was enlisted at the pay grade of E-2 pursuant to the Recruit Referral Program, under which a recruit who caused two other people to enlist in the Coast Guard would be enlisted as an E-2.

The applicant's Record of Military Processing form (FF Form 1966/1) indicates that the applicant enlisted on active duty on November 3, 1998, for a term of four years. The Coast Guard's military processing and recruiting databases also indicate that the applicant enlisted in the Regular Coast Guard on November 3, 1998, for a term of four years.

The applicant's Coast Guard record also contains a Statement of Understanding, signed by the applicant and his recruiter, which states that he was guaranteed assignment to the [REDACTED] "A" school,² convening on [REDACTED] [REDACTED]

The applicant's fourth anniversary on active duty, November 3, 2002, passed without any extension, of his original enlistment or reenlistment. On April 29, 2003, the applicant extended his enlistment for four years to obligate additional service for a transfer to [REDACTED]. The four-year extension contract indicates that the applicant's new EOE was November 2, 2008. The record indicates that he was counseled that he would receive a Zone A SRB with a multiple of 3.5 computed with 48 months of newly obligated service. However, he apparently did not receive the SRB.

VIEWS OF THE COAST GUARD

On February 14, 2005, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant the applicant's request. He based his recommendation on a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC), who relied upon a memorandum prepared by the Coast Guard Recruiting Command (CGRC).

The JAG stated that the applicant's enlistment package reveals numerous discrepancies, and that "it is impossible to prove precisely what [the] Applicant's and

² Class "A" School is the Coast Guard's advanced training school where members are trained in their chosen specialty (rate). Class "A" schools range in length from five weeks to five months, depending on the career field.

the Coast Guard's intentions were regarding the length of Applicant's initial enlistment." However, the JAG agreed with CGPC's determination that it was the intent of the Coast Guard to enlist the applicant into the Regular Coast Guard for a term of four years on November 3, 1998, at the pay grade of E-2. In addition, the JAG recommended that the applicant's record be corrected to indicate that he reenlisted on November 3, 2002, for a term of six years and is therefore entitled to a Zone A SRB. Finally, the JAG recommended that the Board void the applicant's April 29, 2003, extension contract.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 24, 2005, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 30 days. The letter was returned to the Chair by the U.S. Post Office because the applicant had moved and the Post Office did not have a forwarding address on file.

APPLICABLE LAW

Article 2.D.2.b. of the Coast Guard Recruiting Manual states that pending enlistment in the Regular Coast Guard, individuals will be enlisted in the Coast Guard Reserve for a period of eight years.

Article 2.D.2.e. of the Recruiting Manual states that within 12 months of entering the program, a DEP enlistee shall be enlisted in the Regular Coast Guard for four or six years provided he remains fully qualified.

Article 3.G.1. of the Recruiting Manual establishes the procedures for processing recruits with a guaranteed "A" school. There is no requirement for a six-year obligation.

Article 3.G.4. of the Recruiting Manual states that DEP designees with no prior service who cause two other non-prior service applicants to enlist in the Coast Guard or the Coast Guard Reserve shall be enlisted in pay grade E-2.

ALCOAST 329/02 was issued on July 3, 2002, and was in effect from August 5, 2002, through June 30, 2003. Under ALCOAST 329/02, ET2s were eligible for an SRB calculated with a multiple of 3.5.

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 filed.

2. The JAG stated that there are numerous discrepancies in the applicant's enlistment package, but that the records indicate that the Coast Guard intended to enlist the applicant in the Regular Coast Guard for a period of four years on November 3, 1998, at the pay grade of E-2. The Board agrees. Although the applicant's enlistment contract states that unless he enlisted before November 24, 1998, for no less than six years, he would be ordered to active duty as a reservist, and although the applicant apparently did not attempt to reenlist after he completed four years of service, the preponderance of the evidence in the record suggests that the Coast Guard intended to enlist him for four years. The Board notes that the applicant was discharged from the DEP on November 3, 1998, and immediately enlisted in the Regular Coast Guard for four years, pursuant to Article 2.D.2.e. of the Recruiting Manual. In addition, there are a host of other documents in the applicant's Coast Guard record that convince the Board that it was the intent of the applicant and the Coast Guard to enlist the applicant for a term of four years on November 3, 1998. The Board reaches this conclusion even though the applicant's April 29, 2003, extension contract suggests that the applicant and the Coast Guard were operating on the belief that he had enlisted in the Coast Guard for a term of six years. However, despite these discrepancies, there is sufficient documentation in the record to satisfy the Board that it was the intent of the applicant and the Coast Guard to enlist him for a term of four years on November 3, 1998.

3. The applicant was enlisted at the pay grade of E-2 because he caused two other people to enlist in the Coast Guard. Pursuant to Article 3.G.4. of the Recruiting Manual, applicants with no prior service who cause two other non-prior service applicants to enlist in the Coast Guard or the Coast Guard Reserve shall be enlisted in pay grade E-2. The article does not state that the enlistee must enlist for a specific number of years to obtain the pay grade increase.

4. The applicant was promised the Class "A" school for his rating when he enlisted in the DEP. Article 3.G.1. of the Recruiting Manual establishes the procedures for processing recruits with a guaranteed "A" school, and it does not state that there is minimum term of enlistment for recruits who are guaranteed assignment to a particular "A" school.

5. The applicant has proven by a preponderance of the evidence that he enlisted for a term of four years on November 3, 1998, and was eligible to reenlist on November 2, 2002, to receive Zone A SRB.

6. Accordingly, relief should be granted by correcting the record to show that the applicant enlisted for four years on November 3, 1998, and that he reenlisted on November 2, 2002, for six years to receive a Zone A SRB.

ORDER

The military record of _____, shall be corrected to show that he enlisted in the Regular Coast Guard on November 3, 1998, for a term of four years at the pay grade of E-2, and that he reenlisted on November 3, 2002, for a period of six years and is eligible for a Zone A SRB. His four-year extension contract dated April 29, 2003, shall be removed from his record as null and void. The Coast Guard shall pay him any amounts due under ALCOAST 329/02 as a result of these corrections.

