

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2005-064

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

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 February 10, 2005, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated October 27, 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 canceling his six-year reenlistment contract dated July 14, 2003, and replacing it with a 23-month extension followed by a six-year reenlistment contract to receive a Zone B selective reenlistment bonus (SRB)¹ calculated with a multiple of 3.5. The applicant alleged that he was counseled that he would receive a Zone A SRB for reenlisting on July 14, 2003, but that this counseling was in error because he had already received a Zone A SRB for reenlisting in September 2001. Finally, he alleged that if he had been properly

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. Coast Guard members who have at least 21 months but no more than 6 years of active duty service are in "Zone A", while those who have more than 6 but less than 10 years of active duty service are in "Zone B". Members may not receive more than one SRB per zone. Personnel Manual, Article 3.C. and 3.C.4.a.

counseled, he would have extended his enlistment on July 14, 2003, for 23 months to obligate enough service to accept his transfer orders and then canceled the extension before its operative date and reenlisted for a Zone B SRB with a multiple of 3.5.

SUMMARY OF THE APPLICANT'S RECORD

The applicant enlisted in the Coast Guard on September 22, 1997, for a period of four years with an expiration of enlistment (EOE) of September 21, 2001. On September 22, 2001, the applicant reenlisted for three years for a Zone A SRB, with an EOE of September 21, 2004. On June 1, 2003, he received transfer orders to the Coast Guard Cutter [REDACTED]. On July 14, 2003, he reenlisted for six years to obligate sufficient service to accept the transfer orders. This reenlistment contract states that he would receive a Zone A SRB for the reenlistment. There is no Page 7² in the record documenting SRB counseling, as required by Article 3.C.3. of the Coast Guard Personnel Manual. On July 14, 2003, the applicant had less than six years of active duty service and was ineligible for a Zone B SRB. He entered Zone B on his 6th anniversary, September 22, 2003.

VIEWS OF THE COAST GUARD

On May 11, 2005, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant relief.

The JAG stated that the applicant was wrongly counseled that he would receive a Zone A SRB for reenlisting on July 14, 2003. The JAG stated that this counseling was in error because the applicant received a Zone A SRB for his September 2001 reenlistment and under Article 3.C.4.a.6. of the Coast Guard Personnel Manual, a member cannot receive two Zone A SRBs. The JAG stated that in light of the erroneous counseling the applicant should be given the opportunity to cancel his July 2003 reenlistment and have it replaced with a 23-month extension, which is the minimum amount of service the applicant was required to obligate to accept his transfer orders. Finally, the JAG argued that the applicant should be allowed to cancel this extension prior to its operative date of September 22, 2004, and reenlist for a Zone B SRB.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 12, 2005, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 30 days. A response was not received.

APPLICABLE LAW

Article 3.C.4.a.6. of the Coast Guard Personnel Manual states that to receive a Zone A SRB, the member cannot have previously received a Zone A SRB.

² A Page 7 (CG-3307, Administrative Remarks) entry documents any counseling that is provided to a service member during that member's military career.

Article 3.C.3. of the Personnel Manual requires that all personnel with ten years or less of active service who reenlist or extend for any period shall be counseled on the SRB program and shall sign a Page 7 outlining the effect that particular action has on their SRB entitlement.

Article 3.C.5.6. of the Personnel Manual states that extensions of two years or less can be canceled prior to their operative date without any loss of SRB entitlement.

Article 1.G.20.2.b. of the Personnel Manual states that commanding officers are authorized to cancel an extension contract of two years or less before the extension begins to run in order to reenlist or extend a member for a longer period.

Article 4.B.6.a.1. of the Personnel Manual states that members with fewer than six years of active duty service must reenlist or extend to obligate sufficient service for a full tour upon reporting to a new unit. A member must comply with OBLISERV requirements before he or she will be permitted to accept transfer orders.

Article 4.A.5.b. of the Personnel Manual provides that a full tour of duty for an E-6 aboard a cutter based in the continental United States is three years.

ALCOAST 182/03 was issued on April 24, 2003, and was in effect from July 1, 2003, through July 31, 2004. Under ALCOAST 182/03, EM2s were eligible for a Zone B SRB calculated with a multiple of 3.5.

ALCOAST 306/04 was issued on June 21, 2004, and was in effect from August 1, 2004, through July 31, 2005. Under ALCOAST 306/04, EM2s were eligible for a Zone B SRB calculated with a multiple of 3.0.

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. The JAG admitted and the Board finds that the applicant was erroneously counseled when he was told that he would receive a Zone A SRB for his July 14, 2003, reenlistment. The counseling was erroneous because the applicant received a Zone A SRB for his September 22, 2001, reenlistment, and pursuant to Article 3.C.4.a.6. of the Manual, a member cannot receive a second Zone A SRB. The Board finds that if the

applicant had been properly counseled he would have been advised to extend his enlistment for 23 months to obligate sufficient service, in lieu of reenlisting for six years with no SRB. Article 4.B.6.a.1. of the Personnel Manual. Moreover, the applicant should have been advised to extend for 23 months because that was the minimum amount needed to obligate sufficient service to accept his transfer orders pursuant to Article 4.A.5.b. of the Personnel Manual.

3. If the applicant had received SRB counseling in July 2003, he would have been told that he could cancel his 23-month extension prior to its operative date of September 21, 2004, and reenlist for a Zone B SRB. Pursuant to Article 1.G.20.2.b. of the Personnel Manual, commanding officers are authorized to cancel extensions of two years or less before the extension begins to run in order to reenlist or extend a member for a longer period. Pursuant to Article 3.C.5.6. of the Manual, extensions of two years or less can be canceled prior to their operative date without any loss of SRB entitlement.

4. ALCOAST 182/03 was in effect from July 1, 2003, through July 31, 2004, and under this ALCOAST the applicant was eligible for a Zone B with a multiple of 3.5. ALCOAST 306/04 was issued on June 21, 2004, and announced that the multiple for the applicant's rating would decrease to 3.0 on August 1, 2004. Therefore, the applicant would have known that if he canceled his extension and reenlisted *after* July 31, 2004, he would only receive a Zone B SRB with a multiple of 3.0. Therefore, the Board finds that if the applicant had received proper SRB counseling in accordance with Article 3.C.3., he would have (a) extended his enlistment for 23 months instead of reenlisting in July 2003 and (b) canceled the 23-month extension before its operative date and before the 3.5 multiple expired by reenlisting for six years on July 31, 2004, for a Zone B SRB with a multiple of 3.5 in accordance with ALCOAST 182/03.

5. In accordance with the findings above, relief should be granted by voiding the July 14, 2003, reenlistment contract and replacing it with a 23-month extension contract. The extension contract should be canceled and replaced by a six-year reenlistment contract dated July 31, 2004. The reenlistment will entitle the applicant to a Zone B SRB with a multiple of 3.5 under ALCOAST 182/03.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The military record of [REDACTED], USCG, shall be corrected by removing his July 14, 2003, reenlistment contract from his record as null and void. A 23-month extension contract dated July 14, 2003, shall be placed in his record. The July 14, 2003, extension contract shall be canceled and a six-year reenlistment contract dated July 31, 2004, shall be placed in his record. The Coast Guard shall pay him any amount due under ALCOAST 182/03 as a result of these corrections.

