

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2007-100

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

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. The Chair docketed the case on February 23, 2007, upon receipt of the completed application, and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 15, 2007, is approved and 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, who was released from active duty (RELAD) as an EM2/E-5 on July 21, 2006, asked the Board to backdate the date of his reenlistment from November 21, 2006, to October 21, 2006, so that he will be entitled to a selective reenlistment bonus (SRB).¹ The applicant stated that sometime after his RELAD, he realized "how good the Coast Guard life is" and so "attempted to reenlist well within the 90-day period that would allow me to receive a Selective Reenlistment Bonus." Although his recruiter promptly submitted a fast-track application, he was not reenlisted within three months of his RELAD and so did not receive an SRB.

The applicant stated that he went to the recruiting office on November 21, 2006, hoping to reenlist for six years for an SRB. But when he was told that he was not eligible for the SRB, he reenlisted for just three years so that he might receive an SRB in the future. The applicant stated that if he had reenlisted for six years within three months days of his discharge, he would have received an SRB of \$31,872.

¹ Article 1.G.8.a.1. of the Personnel Manual states that "[t]o receive a selective reenlistment bonus (SRB), a member must reenlist within three months from date of discharge and meet the eligibility requirements" Article 3.C.4.a.1. states that a criterion for SRB eligibility is that members must "[r]eenlist not later than 3 months after discharge or release from active duty in a rating authorized an SRB multiple."

In support of his request, the applicant submitted copies of his telephone bills and emails reflecting the following communications between himself, Coast Guard recruiters, and the assignment detailer for the EM rating:

- On September 27, 2006, the applicant emailed a chief petty officer in the Coast Guard Recruiting Command (CGRC), asking “about OCS [Officer Candidate School] possibilities for [him]self.” He noted that he would be receiving his bachelor’s degree in one week and stated, “What are the possibilities for commissioning? What are some of the career paths available? I have also been looking into commissioning programs through the Army and would like to compare and contrast my options.”

- On October 3 and 4, 2006, the applicant made six calls to his local recruiting office, each of one or two minutes’ duration.

- On October 4, 2006, a recruiter responded to the applicant’s email to the chief petty officer. He stated that the next OCS deadline was February 2, 2007, and directed him to the on-line instructions for applying to OCS. The recruiter told the applicant to contact him as soon as he got his OCS application package collected. The recruiter also noted that he would “have to get [the applicant] a physical and a board. Will need time and it has to be done prior to the FEB deadline.”

- On October 9 and 10, 2006, the applicant called the recruiting office three times.

- On October 10, 2006, the applicant sent an email to a recruiter noting that they had spoken on the telephone earlier that day about the possibility of the applicant “reenlisting versus OCS. ... You stated that you spoke with the EM detailer, and that the EM rating is hurting for people and I would be able to keep my E-5 rating.” The applicant stated that he wanted “more information on reenlisting”; indicated his preferred geographical locations; asked if he could “lock in” a billet if he reenlisted; stated that he “strongly desire[d] the EM SRB” and would “really love an SRB”; asked if he could get educational benefits; and asked about the “time-frame for reenlisting.”

- On October 11, 2006, the applicant spoke to his recruiter on the telephone and, at 7:37 p.m., sent him an email with a copy of his DD 214, a specific list of preferred billets, and a question about whether he could sign up for educational benefits.

- On Thursday, October 12, 2006, at 8:38 a.m., the applicant’s recruiter emailed to a chief petty officer at CRGC a fast-track application for the applicant’s reenlistment along with his request for an SRB and an inquiry as to whether the applicant could sign up for educational benefits.

- The applicant called the recruiting office twice on Friday, October 13, 2006, and nine times the following week.

- On Friday, October 20, 2006, the applicant called the EM detailer in Washington, DC. The applicant alleged that during this call, the detailer told him that he had “had [the applicant’s] fast-track application for some time, but thought he was waiting on the recruiter.” Therefore, the applicant called his recruiter to tell him what the detailer had said.

- In the last week of October and the first three weeks of November 2006, the applicant made numerous telephone calls to his recruiter, the recruiting office, and his proposed new command.

- On November 9, 2006, the EM detailer emailed to the applicant his orders assigning him to a cutter. The applicant replied the same day, thanking the detailer for the orders and for the “exceptional customer service.”
- On November 15, 2006, a chief yeoman at CGRC responded to a telephone call from the applicant’s recruiter about the applicant’s desire for an SRB. The chief yeoman stated, “I’m sure there must be a way to help this member.”
- On November 17, 2006, the applicant emailed his recruiter a copy of his RELAD physical examination. He noted that although he was RELAD a few months after undergoing foot surgery, he was in great physical shape and had received an RE-1 reenlistment code.
- On November 19, 2006, the applicant emailed his recruiter about his physical measurements and uniform sizes.

SUMMARY OF THE MILITARY RECORDS

On July 22, 2002, the applicant enlisted in the Coast Guard for four years. He was released from active duty into the Reserve on July 21, 2006, as an EM2/E-5. If he had reenlisted prior to July 1, 2006, he would have been entitled to an SRB calculated with a multiple of 3 under ALCOAST 332/05. On July 1, 2006, ALCOAST 283/06 went into effect, lowering the SRB multiple for EM2 SRBs to 2.5.

On November 21, 2006, the applicant reenlisted for three years. At the time, ALCOAST 283/06 was still in effect with an authorized SRB multiple of 2.5 for EM2s. The applicant was not promised an SRB in the documentation for this reenlistment because he reenlisted more than three months after separation.

VIEWS OF THE COAST GUARD

On July 19, 2007, the Judge Advocate General (JAG) of the Coast Guard recommended that the Board deny the applicant’s request. He stated that the applicant’s reenlistment contract is valid and that he knew at the time he signed it he would not receive an SRB. He concluded that “[a]lthough the circumstances prior to the reenlistment are unfortunate, the applicant still made the ultimate decision to reenlist on 21 November 2006.”

APPLICANT’S RESPONSE TO THE COAST GUARD’S VIEWS

On July 25, 2007, the Chair sent the applicant a copy of the JAG’s advisory opinion and invited him to respond within thirty 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. Because the applicant was RELAD on July 21, 2006, he needed to reenlist within three months, or by Saturday, October 21, 2006, to be eligible for an SRB under Articles 1.G.8.a.1. and 3.C.4.a.1. of the Personnel Manual. The record shows that less than one month before that date, on September 27, 2006, the applicant inquired about applying for OCS. Following several communications, the applicant apparently informed a recruiter on Wednesday, October 11, 2006, that he was interested in reenlisting and, that evening, emailed him his DD 214 and other necessary information. The recruiter submitted a “fast-track” reenlistment application on the applicant’s behalf, with a request for an SRB, early the next morning, October 12, 2006. However, the applicant was not reenlisted by October 21, 2006, and so was not entitled to an SRB when he reenlisted. He therefore minimized the term of his reenlistment contract to maximize any SRB for which he might become eligible in the future. Although the applicant reenlisted on November 21, 2006, knowing that he was no longer eligible for an SRB, he argued that his ineligibility was unjust because, after his application was submitted on October 12th, he should have been reenlisted by October 21st, but his reenlistment was unnecessarily delayed because of an administrative error.

3. To prevail on his claim for the SRB, the applicant would have to prove that the Coast Guard committed an error or injustice by not reenlisting him on or before October 21, 2006, approximately ten days after his recruiter submitted his fast-track application. The applicant pointed to no policy or regulation that entitled him to reenlist within ten days of submitting a fast-track application, and the Board knows of none. Nor is the Board aware of any policy or regulation stating that fast-track applications should normally be processed and lead to reenlistment within ten days. The applicant has not shown that his recruiters or the EM detailer failed to act “correctly, lawfully, and in good faith” in executing their duties.² He has not proved that anyone at CGRC or the EM detailer unreasonably or maliciously delayed processing his fast-track application between October 12 and 21, 2006.

4. Moreover, the applicant’s requested relief—backdating his date of enlistment by a full month—would be inappropriate as it would award him a full month of active duty credit and pay and allowances which he did not actually earn.

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

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

² *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

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

