

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2013-020



FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application after receiving the applicant's completed application on November 10, 2012, 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 July 25, 2013, 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, an Operations Specialist First Class (OS1) on active duty, asked the Board to correct his record to show that he is eligible to receive the Selected Reenlistment Bonus (SRB) that he was promised for signing a 24-month extension contract on November 30, 2009. He stated that shortly after signing the contract he was told that he would not receive the bonus. In support of his allegation he submitted a copy of his November 30, 2009, 24-month extension contract which states that he is eligible to receive a Zone A SRB pursuant to ALCOAST 353/09.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on January 1, 2009, for a term of three years, through December 31, 2011. On November 30, 2009, he signed a 24-month extension contract, obligating service through December 31, 2013, and signed a Page 7 documenting his eligibility for an SRB.

VIEWS OF THE COAST GUARD

On May 29, 2013, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny the applicant's request but offered alternative relief. The JAG argued that the applicant is not eligible for a bonus for signing a 24-month extension contract on November 30, 2009, because he did not meet the eligibility

requirements for an SRB. The JAG stated that the applicant provided sufficient evidence to prove that he was miscounseled and that he should be allowed to cancel the extension contract and be immediately discharged from the Coast Guard.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 5, 2013, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. In his response, the applicant stated that he agreed with the JAG's recommendation and would like to forgo the bonus and be discharged from the Coast Guard effective October 1, 2013.

APPLICABLE REGULATIONS

Article 3.C.4.a. of the Coast Guard Personnel Manual states that to be eligible for a Zone A SRB, the member must have completed 17 months of continuous active duty at any point in their military career and reenlist or extend for a period of at least 3 full years.

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 applicant alleged that he was promised a Zone A SRB for signing a 24-month extension contract on November 30, 2009, but he never received the bonus. The JAG recommended that the Board offer the applicant the opportunity to be expeditiously discharged because he was not entitled to the SRB he was promised. The applicant agreed with the JAG's recommendation and asked to be discharged from the Coast Guard effective October 1, 2013.

3. The Board finds that if the applicant had been properly counseled upon signing his November 30, 2009, extension contract then he would have been told that pursuant to Article 3.C.4.a. of the Personnel Manual he was not eligible to receive an SRB for signing a 24-month extension contract because he had not completed 17 months of continuous active duty and did not extend his enlistment for a term of 3 or more years.

4. The Board finds that the applicant was improperly counseled regarding his eligibility for an SRB and, therefore, the November 30, 2009, 24-month extension contract is voidable. Because the extension contract is voidable and the applicant wants to be discharged, the Board will grant the alternative relief recommended by the Coast Guard. Although the applicant could be immediately discharged, he has indicated that he would like to be discharged on October 1, 2013. Accordingly, relief should be granted by changing the term of his November 30, 2009, extension contract from 24 months to 21 months.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of OS1 [REDACTED] USCG, for correction of his military record is granted as follows: The Coast Guard shall correct the term of his November 30, 2009, extension contract from 24 months to 21 months, so that his new end of enlistment date shall be September 30, 2013.

