

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-073

 ET2/E-5

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the applicant's completed application on February 23, 2019, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated April 17, 2020, 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, an electronics technician second class (ET2) currently on active duty, asked the Board to correct his record by replacing his December 23, 2017, six-year reenlistment contract with a one-year extension contract, stating that doing so would allow him to receive a selective reenlistment bonus (SRB)¹ calculated with 72 months of newly obligated service for a six-year reenlistment contract that he signed on February 26, 2019, five days shy of his 10th active duty anniversary.²

The applicant stated that he was counseled regarding his eligibility for an SRB on December 11, 2017, and was advised that he was not eligible to receive an SRB. He signed a six-year reenlistment contract on December 23, 2017, but alleged that if he had been properly counseled, then he would have been advised to sign just a one-year extension contract instead, so he

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. Military Bonus Programs Manual, Chapter 1.B.1.

² Within 90 days prior to a member's 6th and 10th active duty anniversary, the member is eligible to reenlist for either a Zone A or a Zone B SRB if one is authorized for his rating and the member has not already received one. The member must be counseled about this opportunity, and the counseling must be documented on a Page 7. Bonus Programs Manual, Chapter 1.B.5.i.

could reenlist on his 10th active duty anniversary, March 3, 2019, to receive an SRB calculated with 72 months of newly obligated service. He stated that instead of being told to extend his enlistment so he could reenlist on his 10th anniversary for the maximum SRB, he was advised to reenlist for six years, which resulted in him receiving an SRB calculated with only 14 months of newly obligated service for the six-year reenlistment contract that he signed on February 26, 2019.

The applicant also alleged that the SRB counseling that he received on December 11, 2017, was flawed because it was done by his cutter's Independent Duty YN2 instead of the designated Career Counselor, LT W. He alleged that this was in violation of his cutter's instructions (██████████ 3503.1) dated August 22, 2016.

In support of his application, the applicant submitted a Reenlistment Checklist; a Career Intentions Worksheet that was prepared immediately prior to his December 23, 2017, reenlistment; a Page 7 dated December 11, 2017, documenting that he was eligible to reenlist but that no SRB was available per ALCOAST 157/16; two Page 7s dated December 11, 2017, documenting counseling regarding the Uniform Code of Military Justice and reenlistment counseling; and a copy of his unit's Instruction 3503.1C dated August 22, 2016. The instruction contains the cutter's command assignment list and notes that LT W is the cutter's Career Counselor.

SUMMARY OF THE RECORD

On March 3, 2009, the applicant enlisted in the Coast Guard for a term of four years, through March 2, 2013. He reenlisted for another four years on January 3, 2013, through January 2, 2017. His reenlistment contract noted that there was no SRB in effect for his rating.

On the applicant's 6th active duty anniversary, he and a YN2 signed a Page 7 noting that he had been counseled about and reviewed the Coast Guard's SRB policies and Frequently Asked Questions. The Page 7 noted that there was no SRB in effect for his rating, and the applicant did not reenlist or extend his enlistment.

On February 18, 2016, the applicant received transfer orders to a sea-going buoy tender with a crew of 48. The transfer orders required him to have a least a year of obligated service upon reporting to the buoy tender. The applicant was authorized to sign a one-year extension contract, which changed his end of enlistment (EOE) date to January 2, 2018.

On December 11, 2017, less than a month before his enlistment was to expire, the applicant was counseled about his SRB eligibility on a Page 7 by a YN2. He acknowledged having been counseled about and reviewed the Coast Guard's SRB policies and Frequently Asked Questions. The Page 7 contains the text and format provided for such Page 7s in the Pay and Personnel Procedures Manual, and it states that, pursuant to ALCOAST 157/16, he was not eligible to receive an SRB for reenlisting because none was authorized for his rating.

On December 23, 2017, the applicant completed a Career Intentions Worksheet, indicating that he wanted to reenlist for six years and acknowledging again that he was not eligible for an SRB. The same day, he signed a six-year reenlistment contract obligating service through December 22, 2023, and he did not receive an SRB.

On August 30, 2018, the Coast Guard issued ALCOAST 088/18, which authorized a Zone B SRB for the ET rate.

On January 15, 2019, the applicant was counseled by his cutter's Career Counselor, LT W, that he was eligible to reenlist for a Zone B SRB pursuant to ALCOAST 088/18 because he was within three months of his 10-year anniversary and an SRB was in effect for his rating. He was accurately advised that if he reenlisted for six years then his bonus would be calculated based on 14 months of newly obligated service.

On February 26, 2019 (within five days of his 10th active duty anniversary of March 3, 2019), the applicant signed a six-year reenlistment contract through February 25, 2025, and received an SRB calculated with 14 months of newly obligated service. His SRB was calculated with only 14 months of service because it was reduced by the remaining months of service previously obligated by his December 23, 2017, six-year reenlistment contract.

VIEWS OF THE COAST GUARD

On July 15, 2019, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion and recommended that the Board deny relief. The JAG argued that relief should be denied because the applicant failed to meet his burden of establishing via a preponderance of the evidence that Coast Guard committed any error or injustice with respect to counseling him about his ineligibility for an SRB when he reenlisted for six years on December 23, 2017.

The JAG explained that SRBs are authorized for particular periods as a reenlistment incentive for particular rates and paygrades (ratings) deemed critical. On April 27, 2016, the Coast Guard issued ALCOAST 157/16, and this was the policy in effect when the applicant reenlisted on December 23, 2017. ALCOAST 157/16 did not authorize a Zone B SRB for the ET rate. On May 23, 2017, the Coast Guard issued ALCOAST 165/17, which continued the policy in ALCOAST 157/16 and so did not authorize a Zone B SRB for the ET rate. And on September 29, 2017, the Coast Guard issued ALCOAST 289/17, which again continued the policy and did not authorize a Zone B SRB for the ET rate.

On August 30, 2018, eight months after the applicant reenlisted, the Coast Guard issued ALCOAST 088/18, and it did authorize a Zone B SRB for the ET rate. This was the policy in effect on the applicant's 10th active duty anniversary, March 3, 2019. On a member's 10th active duty anniversary and during the three months before that date, a member is eligible to reenlist for an SRB if one is in effect for his rating no matter when his current enlistment is ending, but the amount of the SRB is reduced by the number of months of service remaining on his current contract.

The JAG stated that pursuant to ALCOAST 157/16, the applicant was not eligible to receive an SRB when he reenlisted on December 23, 2017, and he was properly counseled about his lack of eligibility on a Page 7, as required. The JAG noted that no one could have known in December 2017 that there would be an SRB authorized for the applicant's rating in February 2019.

The JAG also argued that the applicant is mistaken in his belief that it was improper for his cutter's Independent Duty YN2 to provide the SRB counseling that he received before signing the six-year reenlistment contract. First, regardless of who counseled him, he was accurately

counseled that his enlistment was ending and that there was no SRB authorized for his rating. Nor was there any evidence that one would be available in the future for his rating. Therefore, the JAG argued, he was accurately counseled, and it is irrelevant who counseled him. Second, even if the applicant had asked for a one-year extension, there is no guarantee that the Personnel Service Center would have authorized a one-year contract just to enable the applicant to potentially obtain a larger SRB if one was authorized at the time of his 10-year anniversary.

The JAG attached to her memorandum an email from the Pay and Personnel Center stating that there is no requirement that during SRB counseling a member be advised to obligate the minimum amount allowed in case an SRB is authorized for his rate in the future.

RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 18, 2019, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. The Chair did not receive a response.

APPLICABLE LAW AND POLICY

Military Bonus Programs Manual, COMDTINST M7220.2

Chapter 1.B.3. of the Military Bonus Programs Manual states that “[a]ll personnel with 10 years or less active service who reenlist or extend for any period shall be counseled on the SRB program. They shall sign an Administrative Remarks, Form CG-3307, outlining the effect that the particular action [the enlistment or extension] has on their SRB entitlement.” The counseling text and format for the Page 7 is provided in the Pay and Personnel Procedures Manual.

Chapter 1.B.4.b. lists these criteria for receiving a Zone B SRB:

- (1) Reenlist not later than 3 months after discharge or release from active duty in a rating authorized an SRB multiple.
- (2) Have completed 17 months continuous active duty (including periods of active duty service for reserves) at any point in their military career. The 17 months continuous active duty need not have been completed immediately prior to the reenlistment or extension.
- (3) Have completed at least 6 but not more than 10 years active service on the date of reenlistment or the operative date of the extension.
- (4) Be serving in pay grade E-5 or higher. Personnel who are changing rate, as approved by the Commandant, are eligible as an E-4 provided they were E-5 or higher immediately prior to changing rate.
- (5) Reenlist or extend enlistment in the Regular Coast Guard for a period of at least 3 full years, provided the reenlistment or extension, when added to existing active service, will provide a total active duty of no less than 10 years.
- (6) Have not previously received a Zone B SRB.
- (7) Attain eligibility prior to the termination of a multiple for that particular rating.
- (8) Meet any additional eligibility criteria the Commandant may prescribe.

Chapter 1.B.5.b. states that “[m]embers with exactly 10 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone B multiple in effect for their rating if they are otherwise eligible.”

Chapter 1.B.5.e. states the following:

Under no circumstances will an individual be permitted to extend or re-extend their enlistment or reenlist more than 3 months early for SRB purposes alone. However, a member who must obligate service for some other reason (i.e., transfer, training, advancement, tuition assistance, or other obligations as required) may extend, re-extend, or reenlist for a period greater than the minimum required for the purpose of gaining entitlement to an SRB.

Chapter 1.B.5.i. states the following:

Commanding officers are authorized to effect early discharge and reenlist members within 3 months prior to their 6th, 10th, or 14th year active service anniversary dates (not to be confused with the normal expiration of enlistment), for the purpose of qualifying for a Zone A, B, or C SRB. In such cases, SRB payments will be reduced by any portion of unserved service obligation. Commanding officers shall ensure that such personnel are fully qualified to receive an SRB and advise them that all periods of unserved obligated service will be deducted from their bonus entitlement.

Chapter 1.B.13. contains the SRB Frequently Asked Questions (FAQs). FAQ #15, “Is there anything else I should know about the SRB program?,” states the following in pertinent part:

2. If eligible, you may reenlist for a Zone A or B SRB within 3 months prior to the date on which you will have 6 or 10 years active service, respectively, regardless of the amount of time remaining on your current enlistment. Remember, however, that the amount of time remaining on your current enlistment will be deducted from your SRB computation.

The answer to FAQ #16, “Should I always reenlist or extend for the maximum period eligible?,” states the following:

Not necessarily. Let’s say that in your first 4-year enlistment you were required to extend for 18 months to attend Class “A” School. After serving out this 5 and 1/2 years, it’s time to reenlist. If you reenlist for 4 years, you will have 9 and 1/2 years total active service when that enlistment expires and still be eligible for a Zone B SRB because you will not have more than 10 years total active service. However, if you had reenlisted for 5 years, you would have 10 and 1/2 years service at the end of your enlistment and thus ineligible for a Zone B SRB. BE CAREFUL! IT’S ULTIMATELY YOUR DECISION HOW LONG YOU WILL REENLIST OR EXTEND FOR. CONSIDER ALL YOUR ALTERNATIVES AND SEEK GUIDANCE IF YOU HAVE ANY QUESTIONS.

Military Separations Manual, COMDTINST M1000.4

Article 1.B.7.b.4. states that commanding officers may discharge members up to three months before the end of their enlistments if they are immediately reenlisting.

Enlisted Accessions, Promotions, and Evaluations Manual, COMDTINST M1000.2A

Article 1.A.2.a. states that enlistments and reenlistments may be authorized for periods of 3, 4, 5, or 6 full years.

Article 1.B.1.a. states that members extend their enlistments for up to 72 months in order to obligate required service to accept transfer orders, attend schools, receive promotions, etc.; for up to 12 months to complete a deployment; or for up to 12 months if authorized to do so by the Personnel Service Center.

Article 1.B.4.b. states that a “member may not extend their enlistment more than three months before the date the existing enlistment expires. ... A member may not extend more than three months early for SRB purposes only.”

SRB ALCOASTs

ALCOAST 157/16 was issued on April 27, 2016, and it did not authorize a Zone B SRB for members in the ET rate.

ALCOAST 165/17, issued on May 8, 2017, stated that the following ratings had been determined to be critical: AET, AMT, AST, CS, ET, IS, and OS. But it also stated that the current SRB offerings announced in ALCOAST 157/16 would remain in effect through fiscal year 2017.

ALCOAST 289/17, issued on September 29, 2017, continued the SRB offerings in ALCOAST 157/16 “into FY 18.”

ALCOAST 088/18, issued on August 30, 2018, stated that because the ET rate was still a critical rating, a \$30,000 Zone B was being offered to eligible members in the ET rating who reenlisted for an additional six years of active service obligation.

Unit Instruction 3503.1C

Unit Instruction 3503.1C was issued by the applicant’s Commanding Officer (CO) on August 22, 2016, and identifies those officers who are to succeed in command. It also establishes the duties, assignments, and rating chains for unit personnel. It states that the Executive Officer of the cutter, LT W, was a designated Career Counselor, as well as the designated Personnel Officer, Budget Manager, Safety Officer, Medical Officer, Personnel Accountability and Assessment System Coordinator, Controlled Substances/Alcohol Custodian, Legal Officer, Funds Certifying Official, Key Control Officer, Unit Approved Plan Coordinator, EAL and ALMIS System User, and the Personnel Command Point of Contact. The heads of the Deck and Engineering Departments and the Electrical, Auxiliary, and Main Propulsion Divisions were also designated as Career Counselors. The YN2 who signed the disputed Page 7 was the cutter’s Assistant Personnel Officer. The Instruction is silent about who is responsible for counseling members about their SRB eligibility.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on 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 not properly counseled to sign a one-year extension contract on December 23, 2017, instead of a six-year reenlistment contract. He also alleged that he should have been counseled by the cutter's Career Counselor instead of the YN2. The Board begins its analysis in every case by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.³ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."⁴

3. The applicant alleged that if he was erroneously counseled on December 11, 2017, because he was not advised to sign a one-year extension contract so he could reenlist for six years on his 10th active duty anniversary, March 3, 2019, to receive a Zone B SRB not reduced by any previously obligated service. The Board disagrees and finds that the counseling he received was accurate and administered in accordance with Chapter 1.B.3 of the Bonus Manual. The record shows that he was counseled on December 11, 2017, that he was eligible to reenlist but that pursuant to ALCOAST 157/16, he was not eligible to receive an SRB. At the time of this counseling there was no way for anyone to know if an SRB would be authorized for the applicant's rating on his 10th active duty anniversary, which was more than a year away. Although ALCOAST 165/17 had announced that ET and OS were critical ratings, it had not authorized a bonus for them. Accordingly, the Board finds that the applicant has failed to prove by a preponderance of the evidence that he was miscounseled.

4. The applicant also alleged that the SRB counseling he received on December 11, 2017, was erroneous because it was performed by a YN2 instead of the cutter's Career Counselor. Citing his unit Instruction 3503.1C, which states that the Executive Officer, LT W, was one of several designated Career Counselors aboard the cutter, the applicant argued that if he had been counseled by LT W instead of YN2, then he would have been advised to extend his enlistment for one year and then reenlist for an SRB on his 10th active duty anniversary. The applicant submitted no evidence to support this claim, and the Instruction itself is silent about who held the responsibility of counseling members about their SRB eligibility. The Instruction shows that the YN2 was the Assistant Personnel Officer of the cutter and as such was much more likely to have held the responsibility of informing crewmembers about their SRB eligibility than the Executive Officer of the cutter, who is second in command. Moreover, the Page 7 shows that the YN2 accurately counseled the applicant about his SRB eligibility and the YN2's authority to have done this counseling is presumptively correct.⁵ And by signing the Page 7, the applicant acknowledged having reviewed the SRB FAQs, which expressly advise members to be careful about how much service they obligate because months of service obligated under one contract can significantly reduce an SRB received for the next contract.

³ 33 C.F.R. § 52.24(b).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁵ 33 C.F.R. § 52.24(b).

5. The applicant has failed to prove by a preponderance of the evidence that he was mis-counseled regarding his SRB eligibility on December 11, 2017. Accordingly, his request for relief should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of ET2 [REDACTED], USCG, for correction of his military record is denied.

April 17, 2020

