

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2003-025

XXXXX, Xxxxxx X.
xxx xx xxxx, XXX

FINAL DECISION

GARMON, Attorney-Advisor:

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 December 11, 2002 upon the BCMR's receipt of the applicant's request for correction.

This final decision, date August 28, 2003, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant asked the Board to cancel his original four-year enlistment contract that he signed on October 11, 20xx, and to substitute a two-year enlistment contract in its place. He also requested that the Board correct his record to show that he reenlisted for six years on April 11, 20xx, his sixth active duty anniversary, to receive a Zone A selective reenlistment bonus (SRB).

APPLICANT'S ALLEGATIONS

The applicant alleged that he was "misinformed about [his] reenlistment options when [he] first joined the Coast Guard." He alleged that if he had been properly counseled, he would have initially enlisted for two years and thereafter, reenlisted for six years on his sixth active duty anniversary to maximize his Zone A SRB. He asserted that he was never counseled about his eligibility under ALCOAST 585/01 to receive an SRB by reenlisting on his six-year anniversary.

The applicant submitted signed statements from two petty officers first class and his wife in support of his claims. One of the petty officers wrote that, based on the applicant's having four years' prior active duty service in the Navy, he could have enlisted for two years, instead of four years but was erroneously advised by his recruiter at the time he enlisted in the Coast Guard. He also stated that upon his examination of the applicant's personal data record (PDR), he found no documentation of the applicant's ever receiving sixth active duty anniversary counseling.

SUMMARY OF THE APPLICANT'S RECORD

On October 11, 20xx, the applicant enlisted in the Coast Guard in pay grade XX for a term of four years, through October 10, 2004. Prior to entering the Coast Guard, the applicant had served for four years and six months on active duty in the Navy. Therefore, his active duty service date was established as April 11, 20xx.

On December 20, 2001, ALCOAST 585/01 was issued by the Commandant and authorized SRBs for members who reenlisted or extended their current enlistments between February 1, 2002 and August 4, 2002. A Zone A SRB with a multiple of xx was authorized for members in the XX rating who were serving in pay grade XXXX. (Members in Zone A have no more than six years of active duty service.)

The applicant's sixth anniversary on active duty occurred on April 11, 20xx. His record contains no documentation to indicate that he was counseled regarding SRBs prior to the anniversary.

VIEWS OF THE COAST GUARD

On May 30, 2003, the Chief Counsel of the Coast Guard recommended that the Board grant relief by providing the applicant with the opportunity to reenlist on his sixth anniversary, April 11, 20xx, thereby qualifying him for a Zone A SRB under ALCOAST 585/01. He stated that "[i]t is reasonable to assume that the record supports [the applicant's] allegation of error regarding [his] not having the opportunity to reenlist for an SRB upon his 6-year anniversary." The Chief Counsel did not address the applicant's request regarding the term of his original enlistment.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 2, 2003, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 30 days. The Board received no response.

APPLICABLE LAW

Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration), Section 3.d.(1), states that “[m]embers with exactly 6 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone A multiple in effect for their rating if they are otherwise eligible.”

Recruiting Manual (COMDTINST 1100.2D)

Article 2.A.1.a. of the Coast Guard Recruiting Manual in effect in 20xx defined an “enlistment” as “the first enlistment of any person in the regular Coast Guard who has not previously served in the regular Coast Guard.”

Article 2.A.1.c.2. sets forth the required periods of enlistment for individuals with prior military service in a branch of the armed services, other than the Coast Guard. It states that “[t]he enlistment in the regular Coast Guard of a person who has previously served as a member of the Armed Forces shall be for a period of four 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 never counseled about SRBs on his sixth anniversary on active duty. Under COMDTINST 7220.33, the applicant was entitled to proper counseling concerning his eligibility to reenlist on his sixth active duty anniversary to receive an SRB under ALCOAST 585/01. The Board finds, and the Chief Counsel admitted, that there was no documentation of sixth anniversary counseling in the applicant's record. Therefore, the applicant has proven by a preponderance of the evidence that the Coast Guard failed to counsel him about his Zone A SRB eligibility on April 11, 20xx, his sixth anniversary.
3. The applicant asserted that had he been properly counseled when he initially enlisted in the Coast Guard, he would not have enlisted for a term of four years but would have enlisted for two years, through October 10, 20xx. According to applicable regulations in the Recruiting Manual, however, individuals with prior non-Coast Guard military service must obligate four years of active duty service when enlisting in the Coast Guard. See Articles 2.A.1.a. and 2.A.1.c.2. of the Recruiting Manual. Therefore, because the applicant could not have enlisted for a minimum of

two years, the Board finds that the applicant's original four-year enlistment, signed on October 11, 20xx, was neither erroneous nor unjust.

4. Accordingly, the Board should deny the applicant's request for a two-year enlistment contract in place of his original four-year enlistment but grant partial relief by offering him the opportunity to reenlist on April 11, 20xx, his sixth active duty anniversary, for an SRB pursuant to ALCOAST 585/01.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXX XXXXX X. XXXXX, xxx xx xxxx, USCG, for the correction of his military record is granted, in part, as follows:

His record shall be corrected to show that on his sixth active duty anniversary, April 11, 20xx, he was reenlisted for a term of three, four, five, or six years, at his discretion. If he chooses to reenlist as of April 11, 20xx, the Coast Guard shall pay him the Zone A SRB he would be due under ALCOAST 585/01 as a result of this correction.

He shall be fully and properly counseled concerning his options and their consequences on the amount of his SRB and his future eligibility for an SRB prior to his reenlistment.

Julia Andrews

Felisa C. Garmon

Dorothy J. Ulmer