

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
Coast Guard Record of:

BCMR Docket No. 2001-079

XXXXXXXXXXXXXX
XXXXXXXXXXXXXX

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. It was docketed on April 16, 2001, upon the Board's receipt of a complete application for correction of the applicant's military record.

This final decision, dated March 21, 2002, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Requested Relief

The applicant, XXXXXXXXXXXXXXXXXXXXXXXX, asked the Board to correct his record by canceling the 6-year enlistment extension agreement that he signed on January 24, 2000 and replacing it with a shorter extension. (The extension became operative on May 3, 2001.) He received a selective reenlistment bonus (SRB) with a multiple of .5 as a result of this extension.

The applicant alleged that he was improperly counseled as to his SRB entitlement in that he was never told that he could have extended for a shorter period of time and thus, if a higher SRB became authorized, he could change the length of extension in order to receive the higher SRB multiple.

If the applicant's request for relief were granted, it would allow the applicant to receive a SRB with a multiple of 1, under ALCOAST 488/00 which became effective on 1 February 2001, rather than the SRB multiple of .5 he received as a result of the January 24, 2000 extension.

The applicant stated that on January 24, 2000 he requested to extend his enlistment for six years in order to have sufficient obligated service to accept transfer orders to another unit and to attend a training course. He stated that his then-enlistment expired on May 2, 2001. He further stated as follows:

At the time [January 24, 2000] I understood there was an SRB (BONUS) in place. The bonus was a Zone B with a multiple of .5.

I was never afforded the opportunity for counseling as far as SRB benefits and was not aware that there was any, hence I did not sign the Page 7¹ [administrative remarks entry] in regards to SRB counseling as confirmed by my PERSRU [Personnel Reporting Unit] yeoman.

Recently I learned that the SRB had changed to a multiple of 1 vice .5. I contacted my yeoman at PERSRU and he informed me that I would not be able to take advantage of the new bonus as I extended for 6 years and I couldn't extend for more. He explained that this should have been explained to me in counseling. If I had known that this was possible I would have only extended for a shorter time, enabling me to change my length of extension if a higher bonus came along. In fact, I inquired of my command at the time and they explained to me that there was no other documentation necessary except the actual contract.

I request the Board enable me to take advantage of the current multiple of 1 vice the multiple of .5 due to improper counseling.

The applicant acknowledged on the extension agreement in question that pursuant to ALDIST 84/99 he would receive a Zone B SRB with a multiple of .5 based on 72 months of newly obligated service. He further acknowledged on this extension agreement that "[he] fully underst[ood] the effect [his] extension/reextension will have upon [his] current and future SRB eligibility." He also acknowledged that he had been provided [and reviewed] a copy of "SRB Questions and Answers" based on

¹ According to Enclosure (3) to COMDTINST 7220.33, a service member is to acknowledge by his signature on a page 7 entry that he has been provided the following information: "I have been provided with a copy of enclosure (5) to Commandant Instruction 7220.33 . . . entitled "SRB Questions and Answers." I have been informed that: My current Selective Reenlistment Bonus (SRB) multiple ____ and is listed in ALDIST ____, which has been made available for my review. In accordance with Article 12-B-4, CG Personnel Manual, I am eligible to reenlist/extend my enlistment for a maximum of ____ years. My SRB will be computed based ____ months newly obligated service. The following SRB policies were unclear to me, but my SRB counselor provided me with the corresponding answers: (list specifics)

Commandant Instruction 7220.33 [SRB regulation]" and that all his questions had been answered.

Views of the Coast Guard

On September 14, 2001, the Board received an advisory opinion from the Chief Counsel of the Coast Guard recommending that the Board deny the applicant's request for relief for lack of merit. He stated that the applicant signed an extension contract entitling him to a Zone B SRB with a multiple of .5. He further stated that the applicant certified by his signature on the extension contract that he had read and understood his extension contract and that any questions he had were explained to his satisfaction.

The Chief Counsel also stated that the applicant is not entitled to relief because he has failed to prove that the Coast Guard had a duty to counsel him regarding the effect his January 2000 extension might have on future SRB eligibility. He further stated as follows:

The Board should conclude, consistent with its decision in BCMR Docket No. 1999-014, that [the SRB regulation] does not establish a duty to counsel members on all possible effects a current reenlistment/extension contract may have on future SRB eligibility. Certainly, when Applicant signed his extension contract with the Coast Guard, neither party could predict the SRB multiple for his rating would increase. . . .

Furthermore, when Applicant signed his extension contract, he affirmatively acknowledged that he had read the terms of the document and had any questions he had answered to his satisfaction, including the term entitling him to a Zone B SRB with a multiple of .5. Moreover, Applicant is of majority age and responsible for his actions. Without evidence of fraud or duress, Applicant is bound by his acceptance of a contract where he signed it of his own free will in front of a witness. Applicant knowingly signed and accepted a valid contract. He has no basis for reforming it. Therefore, he should be denied relief.

Applicant Reply to the Views of the Coast Guard

On September 17, 2001, the Chairman sent the applicant a copy of the views of the Coast Guard and invited him to respond within 15 days. No response was received from the applicant.

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 section 1552 of title 10, United States Code. The application was timely.

2. In exchange for PCS orders and other training, the applicant agreed to extend his enlistment for six years on January 24, 2000. The applicant is correct that there is no page 7 entry in his military record documenting SRB counseling. However, the applicant was aware that an SRB existed at the time he extended his enlistment because he was promised and received an SRB with a multiple of .5 based on that extension.

3. Moreover, the applicant's January 24, 2000, extension contract (CG-3301B) contained essentially the same SRB information that would have been contained on the page 7 SRB counseling entry, if one had been prepared.

4. The applicant received the SRB multiple that was available for his rating at the time he extended his enlistment, which he was required to do if he wanted to accept the transfer orders. There was no way the applicant or his command could have known on January 24, 2000 that a higher SRB multiple would become available for the applicant's rating in February 2001, approximately one year after he extended his reenlistment.

5. Moreover, the applicant has not presented any evidence that the page 7 entry would have contained any counseling or other information that was not available on the extension contract. Nothing in the SRB regulation requires that the page 7 entry explain how extensions of various lengths may affect future SRB opportunity. The Board notes, however, that the applicant signed a statement on the extension contract acknowledging that he understood the effect the extension would have on his current and future SRB eligibility.

6. The applicant has failed to demonstrate an error or injustice in this case that requires corrective action by the Board. Accordingly, the applicant's request for relief should be denied.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

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

Michael K. Nolan

Kathryn Sinniger

Dorothy J. Ulmer

