

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2009-016

XXXXXXXXXXXX.
xxxxxx, IT1/E-6

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 November 14, 2008, upon receipt of the applicant's completed application, and assigned it to staff members D. Hale and J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated July 16, 2009, 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 information systems technician, first class (IT1), asked the Board to correct his record by canceling the 30-month extension contract that he signed on June 23, 2007, to obligate service (OBLISERV) for transfer. He stated that after he received transfer orders to the Coast Guard Training Center (TRACEN) in Petaluma, CA, he was told that he would need to obligate 30 months of service to accept the orders. However, the applicant alleged that he never received counseling regarding the effect his extension contract would have on his future eligibility for a selective reenlistment bonus (SRB).¹ He stated that if had known that he could not cancel the 30-month extension contract without affecting his SRB, then "I would have requested an assignment listed in COMDTINST M1000.6A.4.A.5., which would have required a 2 or 3 year tour length and still allowed me to take advantage of the SRB."

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. Personnel Manual, Articles 3.C. and 3.C.4.a.

SUMMARY OF THE RECORD

On March 10, 2003, the applicant enlisted in the Coast Guard for a term of six years, through March 9, 2009. On June 25, 2007, the Coast Guard issued orders for the applicant to transfer to TRACEN Petaluma on or about October 1, 2007, and the orders required that he have at least four years of OBLISERV remaining upon reporting to the unit. The applicant extended his enlistment on June 23, 2007, for 30 months to accept the transfer orders. There is no Page 7 in his record to document that he was counseled regarding his eligibility for an SRB. He reported to Petaluma on September 4, 2007. On March 9, 2009, he signed a six-year reenlistment contract and received a Zone A SRB calculated with a multiple of 1.0 but reduced by the 30 months of service obligated by the June 23, 2007, extension contract.

VIEWS OF THE COAST GUARD

On March 26, 2009, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion and recommended that the Board grant alternative relief. The JAG stated that the applicant was not properly counseled regarding the SRB program and that the Coast Guard failed to document counseling on a Page 7.² The JAG argued that if the applicant had been properly counseled, then he would have signed a six-year extension contract on July 17, 2007, to receive a Zone A SRB pursuant to ALCOAST 304/07. Accordingly, the JAG recommended that the Board correct the applicant's record by voiding his June 23, 2007, extension contract and his March 9, 2009, reenlistment contract, and entering a six-year extension contract dated July 17, 2007, for a Zone A SRB pursuant to ALCOAST 304/07.

RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 2, 2009, 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

Article 3.C.3. of the Personnel Manual requires that all personnel with 10 years or less of active service who reenlist or extend for any period shall be counseled on the SRB program and shall sign a Page 7 outlining the effect that particular action has on their SRB entitlement.

Article 3.C.11.1. of the manual provides the administrative remarks that must be made any time a member reenlists or extends their enlistment. The Page 7 that a member must sign after receiving SRB counseling states the following:

DATE: I have reviewed Article 3.C.12. of the Personnel Manual entitled "Frequently Asked SRB Questions and Answers." I have been informed that:

My current Selective Reenlistment Bonus (SRB) multiple is ____ and is listed in ALCOAST _____, which has been made available for my review.

² A CG-3307 (Page 7, or Administrative Remarks) entry documents any counseling that is provided to a service member as well as any other noteworthy events that occur during that member's military career.

In accordance with article 12.B.4 I am eligible to reenlist/extend my enlistment for a maximum of ____ years.

My SRB will be computed based on ____ years newly obligated service. (If extension/reenlistment is for less than 36 months, enter "00.")

The following SRB policies were unclear to me, but my SRB counselor provided me with the corresponding answers: (list specifics)

(Signature of Member/date)

(Signature of Counselor)

Article 4.B.6.a. of the manual states that assignment officers will normally not transfer service members E-4 and above with fewer than six years of active duty unless they reenlist or extend to have enough obligated service to complete a full tour upon reporting to a new unit.

ALCOAST 283/06 was issued on May 15, 2006, and went into effect on July 1, 2006. Under ALCOAST 283/06, IT1s were eligible for a Zone A SRB calculated with a multiple of .5.

ALCOAST 304/07 was issued on June 15, 2007, and was in effect from July 16, 2007, through July 15, 2008. Under ALCOAST 304/07, IT1s were eligible for a Zone A SRB calculated with a multiple of 1.0.

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 not properly counseled regarding the effect his June 23, 2007, 30-month extension contract would have on his future SRB eligibility, and asked the Board to void the extension contract. He stated that if he had known that he could not cancel the 30-month extension contract without affecting his SRB eligibility, then he would have asked for an assignment with a two or three-year tour length, instead of the four-year assignment to Petaluma.
3. The Board finds that when the applicant signed the 30-month extension contract on June 23, 2007, to obligate service for the transfer to Petaluma, he should have received SRB counseling pursuant to Article 3.C.3. of the Personnel Manual, and the counseling should have been documented on a Page 7, in accordance with Article 3.C.11.1. of the manual. There is no such Page 7 in his record. Therefore, the Board finds that the applicant has proved by a preponderance of the evidence that he was not properly counseled when he signed the 30-month extension contract on June 23, 2007.

4. If the applicant had been properly counseled, he would have been told that cancelling an extension contract of more than two years duration by reenlisting for an SRB would reduce the SRB by all periods of unserved obligated service. Therefore, upon receiving the orders to Petaluma, he should have been advised to sign a six-year extension contract on July 17, 2007, to receive a Zone A SRB calculated with a multiple of 1.0 pursuant to ALCOAST 304/07. This action would have provided the applicant sufficient service for the transfer to Petaluma and allowed him to maximize his SRB. The Board notes that the JAG also stated that the applicant should have waited until ALCOAST 304/07 went into effect on July 16, 2007, before signing an extension contract because the SRB multiple of the applicant's rating rose from 0.5 to 1.0 on that date. The Board notes in this regard that ALCOAST 304/07 was issued on June 15, 2007, so the applicant's command knew, or should have known – and told him – that the multiple would double when the new ALCOAST went into effect on July 16, 2007.

5. Accordingly, relief should be granted. The Coast Guard should correct his record to show that he signed a six-year extension contract on July 17, 2007, to receive a Zone A SRB calculated with a multiple of 1.0 pursuant to ALCOAST 304/07. The Coast Guard should remove his June 23, 2007, 30-month extension contract and his March 9, 2009, six-year reenlistment contract from his record as null and void.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXXXXXXX, xxxxx, USCG, for correction of his military record is granted as follows:

The Coast Guard shall correct his record to show that he signed a six-year extension contract on July 17, 2007, for a Zone A SRB pursuant to ALCOAST 304/07. The Coast Guard shall remove his June 23, 2007, 30-month extension contract and March 9, 2009, six-year reenlistment contract from his record as null and void, and shall pay him the amount due as a result of these corrections.

Lillian Cheng

Nancy L. Friedman

Vicki J. Ray