

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-078

FINAL DECISION

ANDREWS, 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 March 16, 1999, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated December 30, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, an xxxxxxxx on active duty in the Coast Guard, asked the Board to correct her military record by canceling a six-year extension of enlistment contract she signed on January 21, 1998. If such a correction is not made, the applicant asked the Board to change the six-year extension to a six-year reenlistment so that she can receive a Zone B Selective Reenlistment Bonus (SRB) under ALDIST 226/97.¹

APPLICANT'S ALLEGATIONS

The applicant alleged that she was wrongly advised by a chief yeoman and yeoman second class at xxxxx that she could receive the same SRB under ALDIST 226/97 by extending her previous enlistment for six years that she could get by reenlisting for six years. Therefore, she stated, she extended her enlistment for six years on January 21,

¹ SRBs vary according to the length of each member's active duty service, the length of the period of reenlistment or extension of enlistment, and the need of the Coast Guard for personnel with the member's particular skills. Coast Guard members who have served between 21 months and 6 years on active duty are in "Zone A," those who have more than 6 but less than 10 years of active duty service are in "Zone B," and those that have more than 10 but less than 14 years of active duty service are in "Zone C."

1998, rather than reenlisting. She later learned that the advice she received was wrong and that she should have reenlisted for six years, instead of extending her previous enlistment.

SUMMARY OF THE RECORD

On the applicant's original Coast Guard enlistment form, DD 1966, she indicated that she had served in the Marine Corps for 3 years, 10 months, and 2 days, from August 27, 1986, to June 29, 1990.

On February 18, 1992, the applicant enlisted in the Coast Guard for a term of four years, through February 17, 1996. On October 31, 1995, she reenlisted for three years, through October 30, 1998.

On September 30, 1997, the Commandant of the Coast Guard issued ALDIST 226/97, which allowed members to receive an SRB if they reenlisted or extended their current enlistments between October 1, 1997, and March 31, 1998. The SRB provided for xxxxx in Zone B who extended their enlistments or reenlisted was calculated with a multiple of one-half.

On January 7, 1998, the applicant received orders to report to the Coast Guard cutter xxxxx on March 1, 1998. To accept the orders, the applicant was required to obligate herself to serve at the new unit through at least February 28, 1999. On January 21, 1998, the applicant extended her enlistment for six years, from October 31, 1998, to October 30, 2004. Her extension contract indicates that she was promised a Zone B SRB based on 72 months of newly obligated service.

April 16, 1998, was the applicant's tenth anniversary on active duty.² She had served 3 years, 10 months, and 2 days in the Marine Corps and 6 years, 1 month, and 28 days in the Coast Guard.

On October 31, 1998, the applicant's six-year extension became operative. Since she was no longer in Zone B when the extension became operative, she did not receive the SRB she had been promised.

VIEWS OF THE COAST GUARD

On November 17, 1999, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request by replacing her six-year extension contract dated January 21, 1998, with a six-year reenlistment contract.

² The Chief Counsel indicated that the applicant's tenth anniversary was April 15, 1998, but the discrepancy is not relevant for the purposes of this final decision.

The Chief Counsel stated that the applicant should be granted relief “because the record demonstrates that Applicant intended to further obligate himself [sic] for an SRB and, had he [sic] reenlisted rather than extending, he [sic] would have been eligible to receive the SRB he[sic] was promised.”

The Chief Counsel explained that, under Section 3.b.(3) of COMDTINST 7220.33, the applicant’s extension did not qualify her to receive an SRB because, although it was signed on January 21, 1998, it did not become operative until October 31, 1998, almost six months past her tenth anniversary on active duty. Therefore, he stated, because the extension did not become effective until after the applicant had left Zone B, she could not receive a Zone B SRB.

However, the Chief Counsel stated, if the applicant had reenlisted on January 21, 1998, instead of extending, the reenlistment would have been effective immediately, while she was still in Zone B, and would have made her eligible for a Zone B SRB under ALDIST 226/97. She was eligible to reenlist on January 21, 1998, because she was within three months of her tenth anniversary on active duty. He noted that if the Board granted relief, the applicant’s SRB would be reduced by the ten months of previously obligated service remaining on the applicant’s prior enlistment contract.

APPLICABLE REGULATIONS

Section 3.b.(3) of Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) states that to be eligible for a Zone B SRB, a member must “[h]ave completed at least 6 but not more than 10 years active service on the date of reenlistment or the operative date of the extension.”

Section 3.d.(9) of Enclosure (1) states that “[c]ommanding 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 respectively. In such cases, SRB payments will be reduced by any portion of unserved service obligation.”

Enclosure (3) to the instruction states that during the three months prior to their 6th, 10th, and 14th anniversary dates, members must be counseled concerning their eligibility for an SRB. The counseling must be memorialized in their records with a Form CG-3307 signed by the member.

ALDIST 226/97, issued on September 30, 1997, authorized members to be paid an SRB if they reenlisted or extended their current enlistments between October 1, 1997, and March 31, 1998. The members had to reenlist or extend their enlistments for terms of at least three years. Xxxxx in Zone B were authorized to receive an SRB calculated with a multiple of one-half. No SRB was authorized for members in Zone C.

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 submissions, 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. The applicant has proved by a preponderance of the evidence that the Coast Guard erred by advising her that she would receive a Zone B SRB for 72 months of newly obligated service if, on January 21, 1998, she extended her enlistment for six years, from October 31, 1998, to October 30, 2004. The Coast Guard had a duty to properly counsel the applicant. Enclosure (3), COMDTINST 7220.33. She should have been advised to reenlist for six years because a six-year extension would not make her eligible for an SRB. Section 3.b.(3), Enclosure (1), COMDTINST 7220.33.

3. The Board is convinced that, if the applicant had been properly counseled, she would have reenlisted for six years on January 21, 1998, to receive an SRB based on the number of months of service newly obligated beyond October 30, 1998, rather than extending her enlistment for six years.

4. Therefore, the alternate relief requested by the applicant should be granted by changing the applicant's six-year extension contract dated January 21, 1998, to a six-year reenlistment contract.

[ORDER AND SIGNATURES APPEAR ON THE NEXT PAGE]

ORDER

The application for correction of the military record of XXXXXXXXX, USCG, is hereby granted as follows:

Her record shall be corrected to show that on January 21, 1998, she was discharged and immediately reenlisted for six years for the purpose of receiving a Zone B SRB. Her six-year extension contract dated January 21, 1998, shall be null and void.

The Coast Guard shall pay the applicant the amount due her as a result of this correction.

Nancy Lynn Friedman

Michael J. McMorrow

Karen L. Petronis

