

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2000-012

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 October 19, 1999, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated June 8, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a xxxxxxxxxxxx on active duty in the Coast Guard, asked the Board to correct his military record by changing the date of a four-year reenlistment contract he signed on September 1, 1999. The correction would entitle him to receive a larger Zone A selective reenlistment bonus (SRB) pursuant to ALDIST 184/99.

APPLICANT'S ALLEGATIONS

The applicant alleged that when he signed a reenlistment contract on September 1, 1999, he was advised that the SRB he received would be calculated based on his rank that day, which was xx2. However, when he received his next pay statement, his SRB was calculated based on his rank as of August 31, 1999, which was XX3.

The applicant alleged that this was unfair because he was misadvised about the calculation, although regulations entitled him to proper SRB counseling. He alleged that if he had known that SRBs are calculated based on a member's rank the day before reenlistment, he would have waited another day to reenlist. He stated that his then-

current enlistment was not due to end until November 27, 1999. Therefore, he could easily have waited and received the higher SRB.

SUMMARY OF THE RECORD

On November 28, 1995, the applicant enlisted in the Coast Guard for a term of four years, through November 27, 1999.

On September 1, 1999, the applicant was advanced from XX3 to XX2. Also on that day, he signed a four-year reenlistment contract. The contract shows his rank as XX2 and indicates his entitlement to an SRB based on a multiple of two under ALDIST 290/98.¹

VIEWS OF THE COAST GUARD

On April 19, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request.

The Chief Counsel stated that the applicant should be granted relief because there is no documentation of SRB counseling in his record and proper counseling would have informed him that he should wait a day before reenlisting to receive an SRB based on his new XX2 rank.

The Chief Counsel recommended that the Board correct the applicant's record to show that he reenlisted for six years on September 2, 1999.

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On April 21, 2000, the BCMR sent the applicant a copy of the Chief Counsel's recommendation and invited him to respond within 15 days. On May 4, 2000, the applicant responded, stating that he did not want to be reenlisted for six years. He stated that his request was only for the Board to change the date of his reenlistment contract, not the term of it, which is currently four years.

COAST GUARD'S SUPPLEMENTAL RESPONSE

On May 12, 2000, the Coast Guard sent the BCMR an e-mail message stating that it concurs in the applicant's requested amendment to the relief proposed in the Chief Counsel's recommendation.

APPLICABLE REGULATIONS

¹ ALDIST 290/98 had actually been cancelled on June 14, 1999. However, the multiple used for calculating SRBs for members in the XX rating remained the same under the new provisions in ALDIST 184/99, which became effective on June 15, 1999.

Section 2 of Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) provides that “[a]ll personnel with 14 years or less active service who reenlist or extend for any period, however brief, shall be counseled on the SRB program. They shall sign a page 7 service record entry, enclosure (3), outlining the effect that particular action has on their SRB entitlement.” The page 7 that members must sign after receiving SRB counseling acknowledges that they have been provided a copy of the full instruction.

Section 3.f.(1) of Enclosure (1) of the instruction states that “[c]omputation of SRB payments is based on the rate of basic pay as of the day immediately preceding reenlistment or the date immediately preceding the date the extension becomes operative.”

ALDIST 184/99, issued on May 13, 1999, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments after June 15, 1999. The multiple to be used for calculating SRBs for members in the XX rating was two.

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. Under Section 2 of Commandant Instruction 7220.33, the applicant was entitled to proper counseling concerning his eligibility for an SRB under ALDIST 184/99 when he reenlisted on September 1, 1999. Proper counseling would have provided him with a copy of the instruction, whose terms required that he wait a day before reenlisting to receive an SRB based on his new rank, XX2. COMDTINST 7220.33, Enclosure (1), Section 3.f.(1).

3. The applicant alleged that he was told his SRB would be based on his new rank if he reenlisted the same day he was advanced to XX2, September 1, 1999. There is no evidence in his record that he received proper SRB counseling. Had he been so counseled, a page 7 entry documenting the counseling should appear in his record, but there is no such entry.

4. The Coast Guard committed an error by failing to counsel the applicant concerning his eligibility for an SRB on September 1, 1999. The Board is persuaded that, if the applicant had been properly counseled, he would have waited until September 2, 1999, before reenlisting to receive an SRB based on his new rank under ALDIST 184/99.

5. Accordingly, the applicant's request should be granted.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXXX, USCG, for correction of his military record is hereby granted.

The date of his four-year reenlistment contract shall be changed from September 1, 1999, to September 2, 1999, so that he shall be eligible for an SRB based on his XX2 base pay under ALDIST 184/99.

The Coast Guard shall pay him any sum he is due as a result of this correction.

Terence W. Carlson

Pamela M. Pelcovits

Edmund T. Sommer, Jr.