

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2000-027

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 November 30, 1999, following the BCMR's receipt of the applicant's completed application.

This final decision, dated November 16, 2000, is 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, a xxxxxxxxxx on active duty in the Coast Guard, asked the Board to correct his military record to show that, in 1982, he extended his enlistment for six years so that he could receive a Zone A Selective Reenlistment Bonus (SRB)¹ with a multiple of 4, pursuant to ALDISTs 340/81 and 004/82.

The applicant alleged that he was never counseled in 1982 about his eligibility to receive an SRB under ALDISTs 340/81 and 004/82. He alleged that, if he had been counseled, he would have decided to reenlist for six years on June 14, 1985,² to receive the maximum possible bonus because he always intended to make a career in the Coast

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 more than 21 months but less than 6 years of active duty service are in "Zone A." Members may not receive more than one bonus per zone.

² Because the applicant was not eligible to reenlist in 1982, the Board interprets his statement as an allegation that if he had been counseled about the ALDISTs, he would have extended his enlistment in 1982 for six years from June 16, 1985, to June 15, 1991.

Guard. The applicant stated that he did not discover his eligibility for this SRB until the executive officer at his current unit told him about the ALDISTs in September 1999.

SUMMARY OF THE RECORD AND REGULATIONS

The applicant enlisted in the Coast Guard as a seaman recruit on June 16, 1981, for a term of four years. He was promoted to xxxxxx; pay grade E-2) in August 1981 and to xxxxxx pay grade E-3) in October 1982. He was promoted to xxx (pay grade E-4) in July 1983. On June 14, 1985, he reenlisted for a second term of four years. On June 14, 1989, he reenlisted for a third term of four years. Although there are no further reenlistment or extension contracts in the applicant's paper military record, he apparently remains on active duty. There is no documentation of SRB counseling in his record prior to 1989.

On October 1, 1981, the Commandant of the Coast Guard issued ALDIST 340/81, which allowed members within 30 days of the end of their enlistment periods to receive an SRB if they reenlisted or extended their current enlistments for at least three years. The Zone A SRBs authorized for members in the xx rating who extended their enlistments or reenlisted under ALDIST 340/81 were calculated with a multiple of four. On January 12, 1982, ALDIST 004/82 temporarily locked in the multiples issued under ALDIST 340/81 and waived the requirement that members be within 30 days of the end of their enlistment periods in order to be eligible to receive the SRB for extending their enlistments. To take advantage of ALDIST 004/82, members had to extend their enlistments before February 15, 1982.

Commandant Instruction 7220.13E (Administration of the Reenlistment Bonus Program) was released on May 4, 1979, and was in effect when ALDIST 340/81 and ALDIST 004/82 were issued. Article 1.d.(1) provided the criteria for SRB eligibility in Zone A. The first criterion listed is that the member "[b]e serving on active duty in pay grade E-3 or higher in a military specialty designated [in the ALDIST]." The Coast Guard was required to counsel members who were eligible for an SRB. *See* COMDT-INST 7220.13E, Enclosure (1), Article 1.g., and the Decision of the Deputy General Counsel in BCMR Docket No. 93-121 (holding that Coast Guard regulations require that eligible members be "fully informed" that they may reenlist or extend their enlistments to receive SRBs).

VIEWS OF THE COAST GUARD

On June 29, 2000, the Chief Counsel of the Coast Guard issued an advisory opinion recommending that the Board deny the applicant's request. He stated that the applicant was ineligible for an SRB under ALDIST 004/82 because he was in pay grade

E-2 when it was in effect. Under Article 3.C.a.(4)³ of the SRB Instruction, he stated, members must be in pay grade E-3 or above to be eligible to receive an SRB. Moreover, the Chief Counsel argued, there was no SRB in effect for members in the xx rating during the three months prior to the end of his first enlistment on June 15, 1985.

³ The Chief Counsel cited an article in the SRB Instruction issued in 1988 (COMDTINST 7220.33). However, that article is substantially the same as Article 1.d.(1) of Enclosure (1) to COMDTINST 7220.13E, which was in effect in 1982.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 30, 2000, the Chairman sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond within 15 days. The applicant requested and was granted a 45-day extension of the time to respond on July 15, 2000, but the Board never received a response.

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 over this matter pursuant to 10 U.S.C. § 1552.
2. Under ALDIST 004/82, from January 12 to February 14, 1982, members could extend their enlistments to receive an SRB even if they were not within thirty days of the ends of their enlistments. However, ALDIST 004/82 did not repeal the other eligibility criteria for an SRB contained in COMDTINST 7220.13E. One of those criteria, listed in Article 1.d.(1) of Enclosure (1) to the instruction, was that the member be in pay grade E-3 or above. The applicant was in pay grade E-2, which is below E-3, while ALDIST 004/82 was in effect.
3. Although the applicant was advanced to pay grade E-3 by the time any extension he might have signed in February 1982 would have gone into effect, this does not mean that in February 1982 he would have been permitted to sign an extension contract based on the possibility that he might be advanced before the extension became operative. Neither ALDIST 004/82 nor COMDTINST 7220.13E contained any provisions for allowing members to extend their enlistments on the chance that they might have met the eligibility criteria by the time their extensions became operative. This finding—that the applicant had to be in pay grade E-3 or above while the ALDIST authorizing the SRB was in effect—is consistent with the Board's decisions in BCMR Docket Nos. 2000-012, 1999-177, 1999-166, and 1999-056.
4. Because the applicant was in pay grade E-2 while ALDIST 004/82 was in effect, he was ineligible for the SRB authorized by the ALDIST. Therefore, the Coast Guard's failure to counsel him about the ALDIST was not an error or an injustice.
5. Accordingly, the applicant's request should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

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

Robert C. Ashby

Edmund T. Sommer, Jr.

Mark A. Tomicich