

DEPARTMENT OF TRANSPORTATION

BOARD FOR CORRECTION OF MILITARY RECORDS

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2001-093

FINAL DECISION

ANDREWS, Deputy Chair:

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 June 4, 2001, after the Board received the applicant's completed application.

This final decision, dated April 11, 2002, 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 xxxxxxxxxxxxxx who enlisted in the Coast Guard on August 5, 1991, asked the Board to correct his military record by replacing his six-year reenlistment contract dated April 9, 2001, with a three-month extension contract and a new six-year reenlistment contract dated October 11, 2001. He alleged that the correction would entitle him to receive a Zone B selective reenlistment bonus (SRB)¹ at the E-7 pay grade under ALCOAST 127/01, rather than the one he has received at the E-6 pay grade under ALCOAST 488/00.

¹ SRBs vary according to the member's pay grade, the length of the member's active duty service, the length of the period of reenlistment or extension of enlistment, and the "multiple" with which the SRB is calculated, which reflects the Coast Guard's need for personnel in the member's skill rating. Coast Guard members who have served between 21 months and 6 years on active duty are in "Zone A," while those who have more than 6 but less than 10 years of active duty service are in "Zone B." With more than 6 years of active service, the applicant was in Zone B. Members may not receive more than one bonus per zone.

The applicant alleged that in April 2001, his then-current enlistment was ending on July 9, 2001, but he wanted to wait to reenlist because he was xxxx on the advancement list to xxxxxxxxxx; pay grade E-7) and wanted to receive an SRB at the E-7 pay grade. When ALDIST 127/01 was issued on March 27, 2001, however, he realized that no Zone B SRB would be authorized for members in the xx rating between May 1 and October 1, 2001. Therefore, on April 9, 2001, while still an E-6, he reenlisted for six years to earn the SRB before it was canceled on May 1st.

The applicant stated that when ALCOAST 198/01 was issued on April 30, 2001, it authorized short-term extensions for members whose enlistments ended and whose sixth and tenth active duty anniversaries fell between May 1 and October 1, 2001, so that those members could reenlist in October and receive an SRB just as if their actual anniversaries had fallen in October. The applicant argued that if ALCOAST 198/01 had been issued before he reenlisted on April 9, 2001, he would have elected to sign a short-term extension and reenlist in October 2001, at the E-7 pay grade to get a bigger SRB.

In support of his allegations, the applicant submitted a copy of an email he sent on March 29, 2001. In the email, he indicated that he wanted to get an SRB by reenlisting within three months of his tenth anniversary.

SUMMARY OF THE RECORD AND REGULATIONS

The applicant enlisted on August 5, 1991, for a term of four years, through August 4, 1995. On July 10, 1995, he reenlisted for six years, through July 9, 2001.

Under Article 12.B.7. of the Personnel Manual, members may be discharged and immediately reenlisted anytime during the three months immediately prior to the end of their enlistments. On April 9, 2001, ninety days before the end of his enlistment, the applicant reenlisted for six years. At the time, ALCOAST 488/00 was in effect, authorizing a Zone B SRB with a multiple of 1 for members in the xx rating. However, ALCOAST 127/01, issued on March 27, 2001, had announced that the Zone B SRB for xx would be canceled as of May 1, 2001, and would not be reauthorized until October 1, 2001. By reenlisting before May 1, 2001, the applicant received the Zone B SRB with a multiple of 1 as an E-6 under ALCOAST 488/00.

On April 30, 2001, the Commandant issued ALCOAST 198/01, which provided the following:

Commanding officers may authorize a short term extension up to 5 months to expire [no later than] 31 October 2001 for members whose 6 or 10-year anniversary date and expiration of enlistment date both fall on or after 1 May 2001 but before 1 October 2001. Upon the expiration of their short term extension, members must reenlist for a minimum of three years

to receive the SRB.

On June 1, 2001, the applicant was advanced to xx/E-7.

VIEWS OF THE COAST GUARD

On October 29, 2001, the Chief Counsel of the Coast Guard recommended that the Board deny the applicant's request.

The Chief Counsel argued that the record indicates that the applicant purposefully chose to reenlist on April 9, 2001, three months before the end of his enlistment because he was aware that the SRB authorized for his rating under ALCOAST 488/00 was being canceled as of May 1, 2001. The Chief Counsel admitted that if the applicant had known about ALCOAST 198/01 in advance, he could have signed a short-term extension contract and reenlisted in October 2001 to receive an SRB at the E-7 pay grade. However, he argued, the Coast Guard "had no duty to release ALCOAST 198/01 in time to benefit the Applicant. On the contrary, the Coast Guard bases its SRB policies with the benefit of knowing how many reenlistments and extensions have been executed." He argued that the applicant had not proved that the Coast Guard committed any error or that he had suffered an injustice.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 2, 2001, the BCMR sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond within fifteen days. No response was received.

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 10 U.S.C. § 1552, and the application was timely.

2. Under the SRB Instruction, COMDTINST 7220.33, members are entitled to accurate counseling about their SRB eligibility whenever they reenlist. The record indicates that in late March or early April 2001, the applicant was accurately counseled about his SRB eligibility in accordance with the regulations in effect at that time. On April 9, 2001, there was no way for the applicant's command to foresee the issuance of ALCOAST 198/01, and ALCOAST 127/01 indicated that the applicant would become ineligible for a Zone B SRB if he did not reenlist before May 1, 2001. Therefore, the

Board finds that the applicant has not proved that he was erroneously counseled about his SRB eligibility when he reenlisted on April 9, 2001.

3. If the applicant had waited to reenlist, he could have taken advantage of the provisions of ALCOAST 198/01 and received his SRB based on his higher basic pay as an E-7. However, without foresight of ALCOAST 198/01, he wisely chose to reenlist before the SRB expired on May 1, 2001.

4. The applicant has not proved that he was entitled to know about ALCOAST 198/01 before the regulation was issued. He has not proved that the Coast Guard committed any error or injustice with respect to his April 9, 2001, reenlistment.

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

ORDER

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

Terence W. Carlson

Robert A. Monniere

Mark A. Tomicich