

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2002-008

XXXXXX, XXXXXX X.
XXX XX XXXX, XXX

FINAL DECISION

GARMON, 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 8, 2001, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated September 12, 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 asked the Board to correct his record to show that he was discharged, and immediately reenlisted for a period of six years on his tenth anniversary of military service¹ for the purpose of receiving a Zone B selective reenlistment bonus (SRB). He stated that on his tenth anniversary of military service, he was never counseled about his eligibility to receive a Zone B SRB under ALCOASTs 127/01 and 198/01. In support of his allegations, he submitted a copy of his April 5, 1999 reenlistment contract and a page 7 for that reenlistment, neither of which indicated a promise of or counseling for an SRB. He also submitted a signed statement from a petty officer second class, indicating that the applicant's tenth anniversary had passed prior to the applicant receiving counseling on his SRB entitlement.

¹ To be clear, in accordance with pertinent SRB regulations, it is the ten-year active duty service anniversary that entitles members to a Zone B SRB, not a ten-year military service anniversary.

SUMMARY OF THE APPLICANT'S RECORD

On June 10, 1991, the applicant enlisted in the Coast Guard Reserve under the Delayed Entry/Enlistment Program (DEP) for eight years. On October 7, 1991, he was honorably discharged from DEP and enlisted in the Coast Guard for four years on active duty, followed by a four-year Coast Guard Reserve obligation. On October 6, 1995, he extended his active duty enlistment for six months, through April 6, 1996. On April 4, 1996, he was released from active duty upon the expiration of his active duty obligation and immediately transferred to the Coast Guard Reserve. At the time of his release from active duty, the applicant had served 4 years 5 months and 28 days on active duty.

On April 4, 1999, he reenlisted in the regular component of the Coast Guard for a term of three years. To date, he continues to serve on active duty in the Coast Guard. There is no evidence in the applicant's record showing that he was on active duty between April 5, 1996 and April 3, 1999.

VIEWS OF THE COAST GUARD

On March 7, 2002, the Chief Counsel provided the Coast Guard's comments to the Board. The Chief Counsel recommended that the Board deny the applicant's request for lack of merit, as follows:

As indicated [i]n the [Coast Guard's personnel management data base] CG PMIS ... Applicant's active duty base date is 31 July 1994.² Hence, Applicant's 10-year service anniversary date is 31 July 2004, not 07 October 2001 as alleged. Hence, Applicant's allegation of error is without merit and should be dismissed with prejudice.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 3, 2002, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 15 days. No response was received by the Board.

² Active duty base dates are supposed to reflect all periods of active duty served by members in the U. S. military forces. The active duty base date is calculated as if the member's previous active duty service had been served continuously up to the date of the subject reenlistment. Thus, having 4 years 5 months and 28 days of previously served active duty at the time of his April 5, 1999 reenlistment, the applicant had an active duty base date calculated as July 31, 1994.

APPLICABLE LAW

Article 3.d.(1) of Enclosure (1) to the Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) states that members with exactly 6 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone A multiple in effect for their rating if they are otherwise eligible. If they have previously received a Zone A bonus or no Zone A bonus is designated, they are entitled to a Zone B bonus if one is in effect.

Article 3.d.(2) of the instruction provides that members with exactly 10 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone B multiple in effect for their rating if they are otherwise eligible. If they have previously received a Zone B bonus or no Zone B bonus is designated, they are entitled to a Zone C bonus if one is in effect.

Article 3.d.(9) of the instruction provides 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. ...”

ALCOAST 218/00, issued by the Commandant on May 19, 2000, authorized members who reenlisted or extended their current enlistments between July 1, 2000 and January 31, 2001. An SRB with a multiple of three and one-half was authorized for members in the xx rating in Zone A (having no more than six years of active duty service).

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 failed to show by a preponderance of the evidence that he was entitled to SRB counseling on October 7, 2001. Although the applicant entered active duty initially on October 7, 1991, he had a three-year break in active duty service between April 5, 1996 and April 3, 1999. Therefore, as the Chief Counsel stated, the applicant's ten-year anniversary date is July 31, 2004. The applicant is correct that he has been a member of the military in several capacities since 1991, however, it is ten

years of active duty, not ten years of military service, that entitles a member to a Zone B SRB if one is available on his ten-year active duty anniversary date. *See* Articles 3.d.(2) and 3.d.(9) of Enclosure (1) to COMDTINST 7220.33. The applicant did not have ten years of active duty on October 7, 2001.

3. Although not eligible for a Zone B SRB, it appears that the applicant was entitled to a Zone A SRB on his sixth year active duty anniversary date of July 31, 2000. *See* Articles 3.d.(1) and 3.d.(9) of Enclosure (1) to COMDTINST 7220.33. ALCOAST 218/00 announced a Zone A multiple for the applicant's rating with an effective date of July 1, 2000. ALCOAST 218/00 was canceled on January 31, 2001 by ALCOAST 488/00. There is no page 7 entry in the applicant's military record showing that he was counseled about his eligibility for a Zone A SRB on his sixth-year active duty anniversary. Because the applicant was eligible for this SRB, the Coast Guard committed an error by not counseling him about it. The Board finds no reasons weighing against the correction of the applicant's record to show that he was eligible for a Zone A SRB on his sixth year active duty anniversary, as the Board has granted similar relief in other cases.

4. Accordingly, the applicant's record should be corrected to show that he reenlisted on his sixth year active duty anniversary for a Zone A SRB.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXX XXXXXX X. XXXXXX, XXX XX XXXX, USCG, for the correction of his military record is granted as follows:

The applicant shall be offered the opportunity of having his record corrected to show that on July 31, 2000, his sixth active duty anniversary, he was discharged and reenlisted for a term of three, four, five, or six years, at his discretion. If he chooses to reenlist as of July 31, 2000, the Coast Guard shall pay the him the Zone A SRB he would be due under ALCOAST 218/00 as a result of this correction.

Michael K. Nolan

Sherri L. Pappas

Dorothy J. Ulmer