

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

Application for Correction of
Coast Guard Record of:

BCMR Docket No. 2002-016

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

FINAL DECISION

ULMER, Chair:

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on January 7, 2002, upon the Board's receipt of a complete application for correction of the applicant's military record.

This final decision, dated August 15, 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 by directing that he receive a Zone B selective reenlistment bonus (SRB) payment with a multiple of 2 under ALCOAST 198/01, rather than the Zone B multiple of 1 he received as a result of his six year reenlistment on April 13, 2001, pursuant to ALCOASTs 488/00.

ALCOAST 488/00 announced a multiple of 1 for the applicant's rating effective February 1, 2001. ALCOAST 127/01 canceled this multiple on May 1, 2001.

ALCOAST 127/01 issued on March 27, 2001 announced a two-phase plan for assigning SRB multiples. It announced a Zone B multiple of 1 for the ET rating from May 1, 2001 through September 30, 2001 and multiple of 2 from October 1, 2001 until canceled. This ALCOAST also provided for the following:

In order to take advantage of the October 1 multiples, commanding officers [COs] may authorize short term extensions up to 6 months to

expire NLT 31 October 2001 for members whose normal expiration of enlistment falls between the date of this ALCOAST and 30 September 2001, and have a October 1 SRB multiple . . . Upon the expiration of their short-term extension, members must reenlist or extend in October 2001 for a minimum of three years additional obligated service to receive the SRB.

ALCOAST 198/01 issued on April 30, 2001 did not announce new multiples. Rather it authorized commanding officers to grant short-term extensions to members whose 6th or 10th year anniversary dates fell on or after May 1, 2001 but before October 1, 2001, and whose rating was entitled to an SRB on October 1, 2001. CO's were permitted to reenlist such members in October 2001 for the purpose of obtaining the SRB multiple available on October 1, 2001. (Normally, individuals may reenlist within three months of or on their 6th and 10th active duty anniversary date to obtain an available SRB multiple.)

The applicant stated that in order to have the amount of remaining service required to accept permanent change of station (PCS) orders, he had to reenlist on April 13, 2001. This was approximately two weeks prior to April 30, 2001; the date ALCOAST 198/01 was issued. His then current enlistment expired on August 29, 2001. Therefore, if he had not reenlisted or extended, he would not have had the one-year of service remaining on his enlistment to accept PCS orders. His reporting date for his new assignment was July 6, 2001. According to Article 4.B.6. of the Personnel Manual the applicant was required to commit to an additional 11 months of service to have the required full year of remaining service prior to reporting to his new assignment.

The applicant claimed that he could have benefited from ALCOAST 198/01 if he had not been required to transfer to a new duty station in July 01, because his end of enlistment and tenth anniversary both fell between the pertinent dates of the ALCOAST. The applicant asserted that if he had not accepted the PCS orders he could have received a short-term extension under ALCOAST 198/01 from August 27th to September 30, 2001, and reenlisted on October 1, 2001, for an SRB multiple of 2. The applicant also alleged that the Coast Guard committed an error by not issuing ALCOASTs 127/01 and 198/01 30 days in advance of the their effective dates.

The applicant received an SRB with a multiple of 1 when he reenlisted on April 13, 2001. His military record shows that he received SRB counseling on April 10, 2001, wherein he was informed that he was eligible for a multiple of 1 under ALCOAST 488/00. He also acknowledged that he was eligible to extend or reenlist for a period of up to six years.

Views of the Coast Guard

On May 15, 2002, the Board received an advisory opinion from the Chief Counsel of the Coast Guard recommending that the Board deny relief in this case. He stated that

the applicant has failed to prove an error or injustice in case. He stated on April 10, 2001, the applicant received appropriate SRB counseling.

The Chief Counsel stated that on or before April 10, 2001, the applicant received orders to a new duty station. The applicant reported to his new unit on July 6, 2001. The applicant was required to execute either an extension agreement or a reenlistment to have the necessary service to qualify for the orders before actually transferring to the new unit. The Chief Counsel stated that the applicant had to have a minimum of one year of obligated service remaining in the Coast Guard upon reporting to his new unit. According to the Chief Counsel, unless the applicant entered into an agreement to extend or reenlist prior to executing the PCS orders, he would not have been permitted to transfer and would have been separated from the Coast Guard on August 29, 2001.

The Chief Counsel stated that contrary to the applicant's contentions, the authority contained in ALCOAST 198/01 to enter into a short-term extension for the purpose of receiving an SRB is inapplicable to the facts presented here. He argued that nothing in ALCOAST 127/01 or ALCOAST 198/01 provided applicant's command with the authority to waive the (11 month) obligated service requirement for acceptance of change of station orders. According to the Chief Counsel, the applicant has failed to make a prima facie showing that the facts presented in his case amounted to an injustice that "shocks the senses" especially in view of the \$11,423.50 received as a result of his six-year reenlistment.

The Chief Counsel stated that the applicant voluntarily entered into a reenlistment contract in April 2001 in exchange for an SRB and PCS orders. According to the Chief Counsel, the applicant made a rational decision to maximize the SRB multiple that was available to him at that time rather than extending for 11 months and hoping that an SRB would be available at the expiration of the extension in July, 2002. The Chief Counsel further stated that the applicant has not explained how he would have been able to take advantage of ALCOAST 198/01 to attain the 2 multiple that was available in October 2001 in view of the requirement that he was required to obligate service prior to July 2001.

Applicant Reply to the Views of the Coast Guard

On May 24, 2002, a copy of the views of the Coast Guard was mailed to the applicant for reply. He did not submit 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 submission, and applicable law.

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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 reenlisted on April 13, 2001. The Coast Guard could not have counseled the applicant on ALCOAST 198/01 because it was not issued until April 30, 2001, after the applicant had reenlisted. ALCOAST 198/01 did not contain a retroactivity provision and therefore is not applicable to the applicant.

3. However, ALCOAST 127/01 was in effect at the time of the applicant's SRB counseling on April 10, 2001 and his reenlistment on April 13, 2001. There is nothing in the record showing that the applicant was informed about this ALCOAST. Therefore, the Coast Guard committed an error by not counseling the applicant about this ALCOAST on or prior to his reenlistment.

4. The applicant was not prejudiced by the Coast Guard's failure to inform him about ALCOAST 127/01 because it did not increase the multiple for the applicant's rating until October 1, 2001. From April 10 through July 5, 2001, a multiple of 1 was available for the applicant's rating, which he received. The applicant could not take advantage of the October multiple because he needed to extend/reenlist prior to July 6, 2001, the date he was required to report to his new command. As the Chief Counsel stated, neither ALCOAST 198/01 nor 127/01 waived the required obligated service requirement before the execution of PCS orders.

5. The Board is not persuaded that the applicant would have refused the PCS orders even if he had known about ALCOAST 127/01 for the following reasons: 1. There was no guarantee that the applicant's CO would have granted him a short-term extension under ALCOAST 198/01. 2. There was no guarantee that the Coast Guard would have permitted him to reenlist at the end of his enlistment on August 29, 2001 rather than discharging him. 3. There was no guarantee that an SRB multiple would have been available for his rating at the end of his 11 month extension in July 2002. To say that the applicant would have declined PCS orders with a guaranteed multiple of 1 would be speculative.

6. The applicant reenlisted on April 13, 2001 and received a multiple of 1. The Board does not find an error or injustice that requires any corrective action under the circumstances of this case.

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

ORDER

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

Christopher A. Cook

Karen L. Petronis

Kathryn Sinniger