

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2002-132

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 July 5, 2002, upon the BCMR's receipt of the applicant's request for correction.

This final decision, date May 22, 2003, 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 canceling the reenlistment contract he signed on August 15, 2000 and reenlisting him for six years to obtain a Zone B selective reenlistment bonus (SRB). He alleged that on May 26, 2000, he was erroneously advised that pursuant to ALDIST 218/00, he would receive a Zone A SRB if he reenlisted for six years. He submitted with his application a copy of the page 7, which shows that he was counseled on his eligibility to receive a Zone A SRB with a multiple of one-half. He alleged that under ALDIST 218/00, however, the SRB authorized for his rating was only for members in Zone A (having no more than six years of active duty service). He alleged that because he had served more than six years of active duty and was no longer in Zone A, he was ineligible for the SRB. He alleged that, if he had been properly counseled, he would not have reenlisted for six years on August 15, 2000.

SUMMARY OF THE APPLICANT'S RECORD

On August 31, 1993, the applicant enlisted in the Coast Guard for four years. On July 25, 1997, he extended this contract for three years, through August 30, 2000. The

extension contract he signed includes language acknowledging SRB counseling, but the SRB information is marked "NA," or not applicable, as there was no multiple authorized for his rating at that time.

On April 10, 2000, after having been advanced to E-5, the applicant signed a page 7 entry (Administrative Remarks) for SRB counseling. He was advised that no multiple was currently authorized for his rating under ALDIST 184/99.

On May 19, 2000, the Commandant of the Coast Guard issued ALCOAST 218/00, which authorized members in the XX rating in Zone A to receive an SRB with a multiple of one-half, if they reenlisted or extended their current enlistments between July 1, 2000 and January 31, 2001.

On May 26, 2000, the applicant signed a page 7 entry, which advised him that he was eligible to reenlist or extend for a maximum of 6 years to receive an SRB with a multiple of one-half pursuant to ALDIST 218/00.

On August 15, 2000, the applicant executed a six-year reenlistment contract. He did not receive the SRB, as promised in the page 7, because at the time of his reenlistment, he had served for over six years on active duty and was in Zone B rather than Zone A. He did not receive a Zone B SRB either because there was no multiple authorized for his rating in Zone B.

VIEWS OF THE COAST GUARD

On November 29, 2002, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant conditional relief. He admitted that the record supports the applicant's allegation of error. He argued however, that prior to the applicant being granted relief, he should provide (1) a satisfactory explanation for his nearly two-year delay in filing his application, and (2) in authentication of the signed page 7, a declaration from the officer who counseled the applicant on May 26, 2000.

The Chief Counsel recommended that upon submission of the above-mentioned evidence, the applicant's August 15, 2000 contract should be voided and replaced with a one-year extension agreement, followed by a six-year reenlistment as of August 15, 2001, which would qualify him for a Zone B SRB with a multiple of two under ALCOAST 127/01.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On December 2, 2002, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 15 days.

On December 12, 2002, the applicant's former XO submitted a statement, which authenticated the May 26, 2000 page 7 submitted with the applicant's application.

On December 17, 2002, the Board received a statement from the applicant explaining that he used his best efforts to rectify the issue involving his SRB eligibility. However, he argued that his adherence to following the Chain of Command, coupled with the fact that his former Personnel Reporting Unit's (PERSRU) yeoman misplaced his personal data record (PDR) file, slowed his efforts tremendously. He stated that he was unaware that he could seek relief from the Board until a Master Chief advised him to submit an application for correction of his military record. He also stated that part of the delay in the Board receiving his application was attributable to a six-month delay in his yeoman mailing his application, after which, he mailed the application himself.

APPLICABLE LAW

Personnel Manual (COMDTINST M1000.6A)

Article 1.G.15.a.1 of the Personnel Manual, entitled "Extension of Term Enlistment," provides that members may voluntarily extend or reextend their term of enlistment "[f]or any number of full years not less than two nor greater than six years, when requested by member[s]." Article 1.G.15.c. provides that "[t]he total of all extensions of an enlistment may not exceed six years."

SRB Manual Provisions

Article 3.a.(3) of Enclosure (1) to the Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration) states that in order for members to receive a Zone A SRB, they must have completed not more than six years of active service on the date of reenlistment.

ALCOAST 127/01, issued by the Commandant on March 27, 2001, authorized SRBs for members who reenlisted or extended their current enlistments between May 1, 2001 and January 31, 2002. An SRB with a multiple of two was authorized for members in the XX rating in Zone B (having at least six but less than ten years of active duty service).

ALCOAST 329/02, issued by the Commandant on July 3, 2002, authorized SRBs for members who reenlisted or extended their current enlistments beginning August 5, 2002. An SRB with a multiple of three was authorized for members in the XX rating who attained pay grade E-5 or higher and were in Zone B (having at least six but less than ten 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. Under Section 2 of Enclosure (1) to the Commandant Instruction 7220.33, the applicant was entitled to proper counseling concerning his eligibility for an SRB under ALDIST 218/00 when he reenlisted on August 15, 2000.

3. To qualify for a Zone A SRB, a member must have no more than six years of active duty service completed on the date of his reenlistment. See COMDTINST 7220.33, Article 3.a.(3). Although the applicant had nearly seven years of active duty service on the date of his reenlistment, the Coast Guard promised him a Zone A SRB. The applicant has proved by a preponderance of the evidence that he was improperly counseled by his command about his SRB eligibility under ALDIST 218/00.

4. In response to the Chief Counsel's advisory opinion, the applicant's former XO submitted a letter to authenticate the May 26, 2000 page 7. Consequently, the applicant has proven to the satisfaction of the Board that the page 7 is a valid part of his record.

5. In recommending relief, the Chief Counsel proposed that the applicant's record be corrected by replacing his August 15, 2000 reenlistment with a one-year extension agreement, followed by a six-year reenlistment contract to qualify for a Zone B SRB calculated with a multiple of two under ALCOAST 127/01. However, under Article 1.G.15.a.1 of the Personnel Manual, no member can voluntarily extend an enlistment for less than two years.

6. Therefore, if the applicant had not reenlisted on August 15, 2000, then on August 30, 2000, the expiration date of his original enlistment, as extended, he would have been allowed to extend his enlistment for the minimum of two years, through August 30, 2002. Thereafter, he would have been allowed to reenlist for six years to receive a Zone B SRB calculated with a multiple of three pursuant to ALCOAST 329/02.

7. Accordingly, relief should be granted in accordance with the findings above.

[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:

His six-year reenlistment contract dated August 15, 2000, shall be null and void.

His record shall be corrected to show that on August 30, 2000, upon the termination of his original enlistment as previously extended, he voluntarily extended his enlistment for two years, from August 31, 2000, to August 30, 2002, and that on August 31, 2002, he reenlisted for six years, through August 30, 2008.

The Coast Guard shall pay him any sum he is due under ALCOAST 329/02 as a result of this correction.

Julia Andrews

Margot Bester

Francis H. Esposito