

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2003-135

FINAL DECISION

ULMER, 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 September 8, 2003, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated May 20, 2004, 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 military record to make him eligible for a Zone B selective reenlistment bonus (SRB)¹ with a multiple of 2 by permitting him to reenlist for six years prior to June 3, 2003. He alleged that he was not properly counseled on his SRB entitlements when he received permanent change of station (PCS) orders to ELC Baltimore on June 19, 2003. He stated that if he had been properly counseled prior to the receipt of PCS orders, he would have reenlisted for six years prior to June 3, 2003 and would have been eligible for an SRB with a multiple of 2.

SUMMARY OF RECORD

¹ SRBs vary according to the length of each member's active duty service, the number of months of service newly obligated by the reenlistment or extension of enlistment contract, and the need of the Coast Guard for personnel with the member's particular skills, which is reflected in the "multiple" of the SRB authorized for the member's skill/rating, which is published in an ALCOAST. Coast Guard members who have at least 6 but no more than 10 years of active duty service are in "Zone B." Article 3.C., Coast Guard Personnel Manual.

The applicant's military record indicates that he enlisted in the Coast Guard for four years on August 8, 1996. He extended this enlistment several times for a total of six years. The last extension for two years and eight months occurred on March 4, 2002, with an expiration date of June 5, 2006. The applicant extended on March 4, 2002, to have enough obligated service remaining on his enlistment to accept PCS orders to MAT Baltimore. Subsequently, on June 19, 2003, he received PCS orders to ELC Baltimore but no reenlistment or extension occurred in conjunction with these orders.

VIEWS OF THE COAST GUARD

On December 11, 2003, the Board received the views of the Coast Guard from the Judge Advocate General. He recommended that the Board deny the applicant's request for relief. TJAG stated the following:

Upon review of the record, it is determined that the Applicant was not eligible to participate for a Zone "B" SRB prior to reporting to ELC Baltimore in July 2003. The Coast Guard Personnel Manual, COMDTINST M1000.6 (Series)(Chapter 4.B.6.a.2), states that personnel E-4 and above with over six years of active duty are considered to be in a career status and are required to have one year of OBLISERV (obligated service) remaining upon reporting to the new unit. The Applicant on the reporting date of 8 July 2003 was a MK2 (E-5) and had two (02) years and eleven (11) months obligated service remaining (EOE date 5 June 2006) and therefore was not required to obligate further service for his PCS transfer. The member did not have to reenlist to accept these orders and therefore counseling was not mandatory. Also, it is noted that the applicant was not within 3 months of his expiration of enlistment date, or 10-year service anniversary date (required counseling dates).

APPLICANT'S REPLY TO THE VIEWS OF THE COAST GUARD

On January 7, 2004, the Board received the applicant's reply to the views of the Coast Guard. He offered the following:

[D]uring my unexpected transfer in July 2003, I was not required to obligate further service for my PCS transfer but it was an opportunity to reenlist that I was not told about until after my transfer. I don't know if this was overlooked due to the quick and unexpected PCS transfer, but I am willing to reenlist for six years as of July 2003 in order to receive an SRB. The Coast Guard Personnel Manual M1000.6 states that the objective of the SRB program is to provide an incentive to reenlist to those personnel in the Service who are serving in a skill or rating designated as critical by the Commandant.

APPLICABLE REGULATIONS

Coast Guard Personnel Manual

Article 4.B.6.a.2. states, "Personnel E-4 and above with over six years of active duty are considered to be in a career status. Unless otherwise indicated, they are required to have one year of OBLISERV remaining upon reporting to the new unit."

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. The application was timely.

2. There was no requirement for the Coast Guard to provide the applicant with any specific counseling upon his receipt of PCS orders on June 19, 2003, because the applicant was not required to reenlist or to extend his enlistment to execute the orders. Article 4.B.6.a.2. of the Personnel Manual states, "Personnel E-4 and above with over six years of active duty are considered to be in a career status. Unless otherwise indicated, they are required to have one year of OBLISERV remaining upon reporting to the new unit." The applicant completed his sixth year of active duty on August 8, 2002, and therefore, he was required to have only one year of service remaining on his enlistment when he reported to his new duty station in July 2003. In fact, the applicant had more than two years remaining on his enlistment when he reported to the new assignment. His current enlistment is not scheduled to expire until 2006. Therefore, contrary to his contention, the applicant was not required to reenlist or extend to meet the obligated service requirement for a PCS transfer.

3. SRB counseling normally occurs when a member is required to extend or reenlist, neither of which occurred in the applicant's case. Moreover, the SRB regulation does not permit enlisting more than three months early for the purposes of obtaining an SRB.

4. Accordingly, the applicant failed to prove an error or injustice in this case, and he is not entitled to relief.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

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

Bruce D. Burkley

Harold C. Davis, MD

John M. Dickinson