

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2003-138

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

FINAL DECISION

ANDREWS, Deputy Chair:

This proceeding was conducted 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 22, 2003, upon receipt of the 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 that the Board correct his record to show that upon receipt of his transfer orders on March 13, 2003, he reenlisted for six years to receive a Zone B selective reenlistment bonus (SRB).¹ He alleged that, upon receiving the orders, he should have been counseled about SRBs and that if he had been, he would have reenlisted for the SRB.

SUMMARY OF THE RECORD

On June 20, 1995, the applicant enlisted in the Coast Guard for a term of four years, through June 19, 1999. On June 16, 1999, the applicant reenlisted for six years, through June 15, 2005, and received a Zone A SRB.

¹ SRBs vary according to the length of each member's active duty service, the length of the period of reenlistment or extension of enlistment, and the need of the Coast Guard for personnel with the member's particular skills. Coast Guard members who have served less than 6 years on active duty are in "Zone A." Those with at least 6 but less than 10 years are in "Zone B." Members may only receive one SRB per zone. Under paragraph 3.b.(5) of Enclosure (1) to COMDTINST 7220.33, SRBs are payable only to members who extend their enlistments or reenlist for at least three years (36 months).

In March 2003, with more than two years remaining to run on his reenlistment contract, the applicant received transfer orders to report to a new station on May 12, 2003. The applicant accepted the transfer orders. He was not counseled about SRBs or permitted to reenlist or extend his enlistment prior to transferring.

VIEWS OF THE COAST GUARD

On December 8, 2003, the Judge Advocate General (TJAG) of the Coast Guard recommended that the Board deny the applicant's request.

TJAG stated that when the applicant received his transfer orders, he had performed more than six years of active duty and was therefore in a "career status." Under Article 4.B.6.a.2. of the Personnel Manual, TJAG stated, members in a career status are required only to have one year of obligated service remaining to accept transfer orders and report to a new unit. Because the applicant's current contract runs through June 15, 2005, TJAG stated, he did not have to obligate additional service to accept the transfer orders. Therefore, TJAG argued, there was no authority to reenlist or extend the applicant's enlistment and no SRB counseling was required.

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On December 15, 2003, the BCMR sent the applicant a copy of the views of the Coast Guard's and invited him to respond within 30 days. No response was received.

APPLICABLE REGULATIONS

Article 4.B.6.a.2. of the Personnel Manual provides that members in pay grade E-4 and above who have performed more than six years of active duty are required to have only one year of obligated service remaining upon reporting to a new unit. A member in career status with less than one year of obligated service remaining must obligate additional service by signing a reenlistment or extension contract.

Paragraph Article 1.G.10.e. of the Personnel Manual, under the heading "Authority to Effect Reenlistment," provides that a member may be reenlisted by his command "not earlier than 90 days before the expiration of his or her enlistment, and not later than the day following the date of expiration of enlistment." Article 3.C.5.9. states that a member may be reenlisted by his command on his sixth or tenth active duty anniversary to receive an SRB.

Article 1.G.18.b. of the Personnel Manual, provides that "[a]n individual may not extend his or her enlistment more than three months (for regular active duty) or 30 days (for reservists) before the date the existing enlistment expires. For certain purposes, however, such as assignment to a Service school, duty outside CONUS, other duty

requiring additional obligated service, or ... , an individual may extend his or her enlistment considerably in advance. An individual may not extend more than three months early for SRB bonus purposes only.”

Article 3.C. of the Personnel Manual requires members to be counseled about SRBs any time they reenlist or extend their enlistments and during the three months prior to their sixth and tenth anniversaries on active duty.

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. In March 2003, the applicant had more than six years on active duty and more than two years remaining to run on his reenlistment contract. Therefore, he was not required to obligate more service to accept his transfer orders. With no need to obligate additional service under Article 4.B.6.a.2. of the Personnel Manual, the applicant was not authorized to reenlist or extend his enlistment since he was not within 90 days of the end of his enlistment or his sixth or tenth active duty anniversary. Personnel Manual, Articles 1.G.10.e., 1.G.18.b., and 3.C.5.9.

3. The applicant alleged that the Coast Guard committed an error by failing to counsel him about SRBs and by not allowing him to reenlist prior to his transfer. However, as stated in finding 2, the applicant's command had no authority to reenlist him or to extend his enlistment. Therefore, the applicant was not eligible to reenlist or extend his enlistment, and his command committed no error in failing to counsel him about SRBs prior to his transfer.

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

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

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

Bruce D. Burkley

Harold C. Davis, MD

John M. Dickinson