

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-060

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

FINAL DECISION

AUTHOR: Ulmer, D.

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 January 20, 2004, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated October 13, 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 so that he is entitled to the Selected Reserve¹ (SELRES) enlistment bonus that was allegedly promised to him when he enlisted in the Coast Guard Reserve on August 31, 2002. However, the enlistment contract does not contain a promise for a SELRES bonus and the Coast Guard has refused to pay one.

The applicant submitted a copy of an administrative remarks page (page 7) dated August 31, 2002. The applicant signed the page 7 on April 19, 2003, and the Coast Guard counselor signed it on April 21, 2003. The page 7 contained the following pertinent information:

¹ The Selected Reserve (SELRES) are those individuals in the Ready Reserve designated as so essential to initial contingency requirements that they have priority over all other Reserve elements. SELRES members are generally authorized 48 paid Inactive Duty Training (IDT) drills and at least 12 paid Active Duty Training (ADT) days per fiscal year. Chapter 1.C.2a. of the Reserve Policy Manual.

I have [been] advised that I am currently eligible for a Level I Selective Reserve Affiliation Bonus as listed in ALCOAST 231/02, which has been made available [to] me.

I am eligible to serve up to a maximum of 72 months. My bonus will be computed based on 72 months of obligated service.

I hereby acknowledge that I have read and fully understand the contents and explanation of COMDTINST 7220.1 (series). I have been counseled on the opportunity to have my SRB payments contributed to the Thrift Saving Plan (TSP).

SUMMARY OF THE RECORD

On November 18, 1991, the applicant enlisted in the Coast Guard for four years. On September 1, 1995, he reenlisted for 4 years, and on January 20, 1999, he extended this enlistment for eight months. On August 31, 1999, he again reenlisted for three years and on August 30, 2002 he was honorably discharged from the regular Coast Guard, after having served on active duty for ten years, eight months, and 13 days. On August 31, 2002, he enlisted in the Coast Guard Reserve.

VIEWS OF THE COAST GUARD

On April 19, 2004, the Judge Advocate General (TJAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny the applicant's request. TJAG argued that the applicant has produced no evidence to support his claim that he was entitled to a bonus. He further stated, "Applicant received the benefit of the bargain he struck; he has been accepted into the Coast Guard Selected Reserve at the pay grade of E-6 and is receiving pay and allowances for the same. He is "entitled" to no more."

TJAG attached to his advisory opinion a memorandum on the case prepared by the Commander, Coast Guard Personnel Command (CGPC). CGPC stated that at the time the applicant enlisted in the Coast Guard Reserve he had already met his initial 8-year military service obligation, and therefore, he was not eligible for an affiliation bonus.² In addition, CGPC stated that ALCOAST 231/02 clearly stated that an individual in the applicant's situation was ineligible for a bonus. In this regard, CGPC stated that the applicant signed a page 7 dated August 31, 2002, acknowledging that ALCOAST 231/02 had been made available to him and he understood its provisions. CGPC concluded his comments with the following: "Applicant has no basis for requesting [a] SELRES Affiliation Bonus or SELRES Enlistment Bonus. At no point

² An affiliation bonus was offered to those members of the Reserve who had time remaining on their initial eight-year military obligations and who agreed to affiliate with the SELRES.

during applicant's separation process was a bonus available for enlisting into the SELRES."

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On April 23, 2004, the BCMR sent the applicant a copy of the Coast Guard views and invited him to respond. He did not submit a response.

APPLICABLE REGULATION

Selected Reserve Enlisted Bonus Programs (COMDTINST 7220.1A)

Paragraph 1 of Enclosure (4) states that the SELRES Prior Service Enlistment Program "provides a bonus to eligible prior service personnel who enlist in the SELRES (Selected Reserve) in ratings, billets, or units designated most critical (Level 1) or critical (Level 11). The criticality of ratings, billets, or units are periodically revised by ALDIST to maintain currency."

Paragraph 2 of the Enclosure lists the following pertinent eligibility criteria for the Prior Service SELRES Bonus Program:

- "a. Enlistment must be for three to five years in the SELRES to qualify for the three-year bonus or six to eight years in the SELRES to qualify for the six-year bonus.
- "b. Total prior service must be less than 14 years at the time of enlistment. Total prior service to date of enlistment is the total active and inactive service, regardless of branch ...
- "c. Members who have not completed their Military Service Obligation (MSO) may enlist up to 90 days prior to their normal EOS. In cases of early enlistment, the term of the new contract will begin on the date of enlistment, unless waived by the other service . . .
- "e. Member must hold or be assigned to a bonus-eligible permanent rating, billet, or unit listed the current ALDIST bonus message at the time of enlistment.
- "f. Member must agree to serve in the SELRES in the same rating, billet, or unit, for which the bonus was authorized . . .

"g. Member must execute a written agreement [sample shown in instruction]."

Paragraph 4 contains the administrative procedures for bonus payment. It provides that members must sign an agreement made on a page 7 when enlisting. Under the instruction, the recruiting office reviews the following documents to make sure they are correct:

"(1) Current Enlisted Application and Orders to a RPAL billet

"(2) Report of Separation from Active Duty (DD Form 214)

"(3) Enlistment/Reenlistment Document—Armed Forces of the United States (DD Form 4)

"(4) Record of Military Processing - Armed Forces of the United States (DD Form 1966)

"(5) Written Agreement (CG-3307 [page 7]) for SELRES Prior Service Enlistment Bonus."

ALCOAST 231/02

This ALCOAST was published and became effective on May 6, 2002. It authorized Level I and Level II bonuses for assignment in certain billets at certain units of the SELRES for prior service personnel who enlisted in the Reserve. Members in the FS rating who were permanently assigned to the Naval Coastal Warfare Forces Units were eligible for the Level I bonus, if they met the requirements of COMDTINST 7220.1A. The ALCOAST further authorized the payment of this bonus for members with over 7 years, 9 months prior service but less than 14 years prior active/inactive 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 submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.

2. As CGPC stated, the applicant had completed his initial eight-year military obligation when he enlisted in the Reserve, and therefore, he was not eligible for an affiliation bonus.

3. However, in addition to authorizing affiliation bonuses, ALCOAST 231/02 also authorized SELRES enlistment bonuses for prior service personnel. Paragraph 7 of ALCOAST 231/02 authorized SELRES enlistment bonuses for prior service personnel who, like the applicant, held critical ratings and who were assigned to certain SELRES units and billets if they met the eligibility requirements of COMDTINST 7220.1A. ALCOAST 231/02 became effective on May 6, 2002 and remained in effect until April 28, 2003.

4. Paragraph 2.g. of Enclosure (4) to COMDTINST 7220.1A states that a member must execute a written agreement for a SELRES bonus. In addition, Paragraph 4 states that the "member must sign an agreement on [a page 7] when enlisting." The applicant has offered insufficient proof to establish that he executed a written agreement or that he was promised a prior service SELRES bonus at the time he enlisted in the Coast Guard Reserve.

5. The page 7 offered by the applicant to prove that he was promised the SELRES bonus was signed by the applicant and the Coast Guard in April 2003, approximately seven months after the applicant enlisted in the Coast Guard Reserve. COMDTINST 7220.1A contains no provision for executing this agreement after the member has already enlisted.

6. The applicant has provided nothing to show that at the time he enlisted in the Coast Guard Reserve on August 31, 2002, he was promised a prior service SELRES enlistment bonus. He could have submitted a statement from the recruiter/service member who enlisted him verifying or confirming that it was the intention of the parties that the applicant would be assigned to a SELRES unit and billet that qualified for a SELRES bonus, as authorized by COMDTINST 7220.1A. Without this evidence, the Board has no way of knowing whether the offer of a SELRES bonus for the applicant was an inducement for his enlistment in the Reserve on August 31, 2002.

7. Accordingly, the applicant has not proven his case by a preponderance of the evidence and it should be denied.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

The application of xxxxxxxxxxxx, USCGR, for the correction of his military record is denied.

Julia Andrews

Nancy L. Friedman

Kathryn Sinniger