

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2004-079**

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**FINAL DECISION**

**AUTHOR: Hale, 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 March 16, 2004, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated November 12, 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 record to show that he is entitled to a selective reenlistment bonus (SRB) calculated with a multiple of 3.5, instead of the multiple of 2.5 that he received for signing a six-year reenlistment contract on March 21, 2004.

The applicant alleged that when he signed a six-year extension contract on April 2, 2003, to obligate service, he was counseled by a yeoman at his former command that he would receive an SRB with a multiple of 3.5.<sup>1</sup> In support of his request, the applicant

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<sup>1</sup> SRBs allow the Coast Guard to offer a reenlistment incentive to members who possess highly desired skills at certain points during their career. 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 21 months but no more than 6 years of active duty service are in "Zone A", while those who have more than 6 but less than 10 years of active

submitted a signed memorandum from his current command, which states that the applicant was required to sign an extension to obligate sufficient service for transfer to an overseas assignment.<sup>2</sup> Before signing the six-year extension contract to obligate the required service, the applicant was counseled regarding SRBs and told that he was eligible for an SRB with a multiple of 3.5 pursuant to ALCOAST 329/02.

Shortly after arriving at his new assignment in May 2003, the applicant alleged, he was informed by a yeoman at his current command that he (the applicant) had been improperly counseled and that his April 2, 2003, extension contract was voidable and the SRB he was promised was void because the operative date of the extension was beyond his ten-year anniversary date.<sup>3</sup> The applicant then alleged that he “had no choice” but to cancel the extension and immediately execute a new six-year reenlistment contract to obtain an SRB.

### **SUMMARY OF THE APPLICANT’S RECORD**

On March 22, 1994, the applicant enlisted in the Coast Guard for a term of four years, through March 21, 1998. On March 12, 1998, the applicant extended his enlistment for one month, through April 21, 1998. On April 1, 1998, the applicant reenlisted for six years, through March 31, 2004. On April 2, 2003, the applicant signed a six-year extension contract to obligate service for an overseas assignment. The extension would have become operative at the end of his enlistment on April 1, 2004. When he executed the extension contract, the applicant was counseled that he was eligible to receive a Zone B SRB with a multiple of 3.5 in accordance with ALCOAST 329/02.

On March 21, 2004, one day prior to his ten-year service anniversary date, and prior to the effective date of the April 2, 2003, extension, the applicant cancelled the extension and reenlisted for six years as a BM1 (boatswain’s mate, first class) and became eligible for a Zone B SRB with a multiple of 2.5 in accordance with ALCOAST 182/03.

### **VIEWS OF THE COAST GUARD**

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duty service are in “Zone B”. Members may not receive more than one SRB per zone. Personnel Manual, Article 3.C. and 3.C.4.a.

<sup>2</sup> Article 4.B.6.b.1. of the Personnel Manual provides that all personnel ordered to OUTCONUS [outside continental United States] duty stations shall obligate [service] to complete the full tour.

<sup>3</sup> Pursuant to Article 3.C.4.b.3. of the Personnel Manual, to receive a Zone B SRB, the member must have completed at least 6 but no more than 10 years of active service on the date of reenlistment or the operative date of the extension. On the operative date of the applicant’s extension, he would have more than 10 years of service and would be ineligible for a Zone B SRB.

On April 26, 2004, the Judge Advocate General (TJAG) of the Coast Guard submitted an advisory opinion recommending the Board deny the requested relief but grant the applicant alternative relief. TJAG stated that in an effort to afford the applicant a result that most closely represents the bargain he claims, the Coast Guard recommends that the Board correct the applicant's record by changing the six-year extension contract dated April 2, 2003, to a six-year reenlistment. This will entitle the applicant to an SRB with a multiple of 3.5.

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On May 3, 2004, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 30 days. No response was received.

### **APPLICABLE LAW**

#### *Coast Guard Personnel Manual*

Article 4.B.6.b.1. states that all personnel ordered to duty stations outside the continental United States shall obligate service to complete the full tour.

#### *Pertinent ALCOASTs*

ALCOAST 329/02 was issued by the Commandant on July 3, 2002, and was in effect from August 5, 2002, through June 30, 2003. It authorized SRBs for members who reenlisted or extended their current enlistments and established a multiple of 3.5 for QM1s. (The applicant was a QM1 before that rating was abolished).

ALCOAST 182/03 was issued by the Commandant on April 24, 2003, and was in effect from July 1, 2003, through July 31, 2004. Under ALCOAST 182/03, BM1s were eligible for a Zone B SRB calculated with a multiple of 2, with an additional 0.5 multiple added for certain coxswain competency codes.

### **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. On April 2, 2003, the applicant signed a six-year extension contract to obligate sufficient service to accept an overseas assignment and was counseled that he

would receive a Zone B SRB with a multiple of 3.5 under ALCOAST 329/02. However, the effective date of the extension was April 1, 2004, — ten days after the applicant's ten-year anniversary date of March 22, 2004. If the extension contract had taken effect, the applicant would have been ineligible for an SRB because he would have had more than ten years of service on the operative date of the extension, and members with more than ten years of service are ineligible for Zone B SRBs.

3. Under Article 3.C.3. of the Personnel Manual, the applicant was entitled to proper counseling concerning his eligibility for an SRB under ALCOAST 329/02. He has proven by a preponderance of the evidence that he was not properly counseled regarding his eligibility for an SRB and the impact his ten-year anniversary date would have on his eligibility. However, when an applicant proves, as applicant does here, that he has received improper counseling, the Board's policy is to not offend the regulation by fulfilling the erroneous promises, but to return the applicant to the position he would have been in had he been properly counseled. The Board finds that if the applicant had been properly counseled, he would have executed a six-year reenlistment contract instead of an extension contract on April 2, 2003, and he would not have reenlisted on March 21, 2004.

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

**[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]**

**ORDER**

The application of XXXXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is granted, as follows: The Coast Guard shall void the April 2, 2003, extension contract and replace it with a six-year reenlistment contract. The six-year reenlistment contract that he signed on March 21, 2004, shall also be null and void. The Coast Guard shall pay the applicant any amount due in accordance with ALCOAST 329/02.

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Philip B. Busch

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Harold C. Davis, M.D.

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George A. Weller