

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-122

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

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 May 19, 2004, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated December 29, 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 by canceling his four-year extension contract and replacing it with a six-year reenlistment contract. He alleged that his ship's personnel office told him that he could cancel the March 19, 2004, extension contract at a later date and reenlist for six years to maximize his selective reenlistment bonus (SRB).¹ After being notified that he was not selected for the Coast Guard's Pre-Commissioning Program for Enlisted Personnel (PPEP)² the applicant attempted to cancel the extension contract and reenlist for six years, but was told that he would have to wait until three months prior to the end of his enlistment to cancel the extension.

The applicant further alleged that shortly after telling him he could cancel the extension without any negative impact on his reenlistment, the personnel office admitted they were mistaken and that if he cancelled the extension contract and reenlisted, then his SRB would be reduced by the number of months previously

¹ 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, that is published in an ALCOAST.

² The Coast Guard's Pre-Commissioning Program for Enlisted Personnel (PPEP) program is an opportunity for top performing enlisted personnel to complete their Bachelor's degree, attend Officer Candidate School (OCS), and receive a Coast Guard commission.

obligated by that extension. The applicant now seeks to replace that four-year extension with a six-year reenlistment, which would be calculated with seventy-two months of newly obligated service, resulting in a significantly larger SRB.

SUMMARY OF THE APPLICANT'S RECORD

On August 29, 2000, the applicant enlisted in the Coast Guard for a term of four years, through August 28, 2004. On February 5, 2004, the applicant signed a page seven (CG-3307) in which he acknowledged being advised that he was eligible to reenlist or extend his enlistment and that his Zone A SRB multiple was three in accordance with ALCOAST 182/03. On March 19, 2004, the applicant signed a four-year extension contract, through August 28, 2008, to "lock in" the SRB multiple while awaiting possible selection for the PPEP program. The contract indicates that it was signed at the "request of individual," rather than to attend school or receive tuition assistance. Under ALCOAST 182/03, he received a Zone A SRB with a multiple of three and calculated with forty-eight months of newly obligated service. Shortly after signing the March 19, 2004, extension contract, the applicant sought to cancel the extension and reenlist for six years to receive an SRB calculated with seventy-two months of newly obligated service, but discovered that if he cancelled the extension contract his SRB would be reduced by the number of months obligated by the extension.

VIEWS OF THE COAST GUARD

On June 29, 2004, the Judge Advocate General (TJAG) of the Coast Guard recommended that the Board deny the applicant's request. TJAG noted that the four-year extension contract was signed at the "request of individual" and that the applicant is bound by his acceptance of the contract, he was of majority age, and was responsible for his actions. TJAG also noted that there was no allegation of fraud or duress, and there is no evidence in the record that he was misinformed about his four-year extension contract and the effect it would have on his SRB if he attempted to reenlist at a later date.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 1, 2004, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within thirty days. The applicant responded on August 8, 2004, and requested a thirty-day extension in which to respond to the Coast Guard's advisory opinion. The Chair granted the applicant's request on August 3, 2004, but the applicant telephoned the BCMR on August 23, 2004, and indicated that he would not be submitting a response to the Coast Guard's advisory opinion.

APPLICABLE REGULATIONS

Coast Guard Personnel Manual

Article 1.G.19.2.b. of the Personnel Manual provides that extension contracts for terms of two years or less may be canceled prior to their operative dates to allow the member to sign a new, longer extension or reenlistment contract to receive an SRB.

Article 1.G.15.e. states that the term of enlistment for first term personnel may only be extended for the minimum period required to attend school, to participate in the Coast Guard Tuition Assistance Program, or for duty INCONUS or OUTCONUS.³ Commanding officers are authorized to extend these members in order to meet the minimum service required.

Pertinent ALCOASTs

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, ET2s were eligible for a Zone A SRB calculated with a multiple of three.

ALCOAST 306/04 was issued by the Commandant on June 21, 2004, and went into effect on August 1, 2004. It remains in effect. Under ALCOAST 306/04, ET2s are eligible for a Zone A SRB calculated with a multiple of two.

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 March 19, 2004, the applicant signed a four-year extension contract and was counseled that he would receive a Zone A SRB. However, the applicant was not eligible to extend his enlistment on March 19, 2004. Article 3.C.5.5. of the Personnel Manual states "under no circumstances will an individual be permitted to extend their enlistment more than three months early for SRB purposes alone." The personnel manual furthers states "a member who must extend for some other reason (i.e., transfer, training, advancement, or tuition assistance) may extend for a period greater than the minimum required for the purpose of gaining entitlement to an SRB." The applicant enlisted in the Coast Guard on August 29, 2000, and his enlistment expired on August 28, 2004. Absent any of the qualifying reasons under Article 3.C.5.5., the applicant did not become eligible to extend or reenlist until **after** May 28, 2004. In this case, there is no evidence in the record that indicates that the purpose of the applicant's extension was for any of the qualifying reasons listed in Article 3.C.5.5. In fact, on the March 2004 extension contract, Block 9 indicates that his reason for extending was "request of individual." In accordance with Article 3.C.5.5., extending more than three months early at the request of the individual is not a qualifying purpose.

3. The Board finds that if the applicant had been properly counseled, he would have been told that he was not eligible to extend or reenlist on March 19, 2004. He should have been advised that he had to wait until after May 28, 2004, to sign a new contract. Moreover, he would have been advised that previously obligated service diminishes an SRB, and so waiting to sign a contract would be advantageous. When

³ INCONUS: Inside the Continental United States. OUTCONUS: Outside the Continental United States.

ALCOAST 306/04 was issued on June 21, 2004, he would have known that the multiple for his rating was falling from three to two on August 1, 2004, and that it would therefore behoove him to reenlist on July 31, 2004. By waiting until July 31, 2004, to extend or reenlist, the applicant would have less previously obligated service and would still receive an SRB calculated with a multiple of three.

4. Furthermore, the Board notes that Article 1.G.15.e. of the Coast Guard Personnel Manual clearly states "personnel in their first term with the Coast Guard may only extend their original enlistment to attend training, to participate in the Coast Guard Tuition Assistance Program, or for duty INCONUS or OUTCONUS." There is no evidence in the record that the applicant extended for any of these purposes. On his March 2004 extension contract, the applicant stated that the reason for the extension was "request of individual". The applicant enlisted in the Coast Guard on August 29, 2000, and his first term expired on August 28, 2004. In accordance with the Article 1.G.15.e., he was not eligible to extend his enlistment prior to May 28, 2004, for any reasons other than those noted above, because he was in his first term with the Coast Guard.

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

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is granted in part as follows:

The March 19, 2004, extension contract shall be null and void. A six-year reenlistment contract dated July 31, 2004, shall be placed in his record. The Coast Guard shall pay the applicant any amount due under ALCOAST 182/03 as a result of this correction.

Jordan S. Fried

Richard Walter

Suzanne L. Wilson