

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-129

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

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 26, 2004, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated January 13, 2005, 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 4-year reenlistment contract dated April 21, 2004, and replacing it with a 14-month extension contract. He alleged that he was erroneously counseled and told that he had to obligate service to accept transfer orders and that he would receive a Zone A selective reenlistment bonus (SRB)¹ for his 4-year reenlistment. The applicant alleged that shortly after signing the reenlistment contract, he learned that he was not eligible for the SRB because he had already received a Zone A SRB for a previous reenlistment. The applicant now seeks to replace that 4-year extension contract with a 14-month extension contract to meet his minimum obligated service requirement.

SUMMARY OF THE APPLICANT'S RECORD

On April 20, 2000, the applicant enlisted in the Coast Guard Reserve on extended active duty for a term of 2 years, through April 19, 2002. On April 17, 2002, the applicant enlisted in the regular Coast Guard for a term of 3 years, through April 16, 2005, and received a Zone A SRB pursuant to ALCOAST 485/01. On April 21, 2004, the applicant reenlisted for another 4 years to obligate sufficient service for transfer to a

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.

cutter based in Boston, Massachusetts, and this reenlistment contract indicates that he was promised another Zone A SRB pursuant to ALCOAST 182/03.

VIEWS OF THE COAST GUARD

On August 18, 2004, the Judge Advocate General (TJAG) of the Coast Guard recommended that the Board deny the applicant's request but grant alternative relief. TJAG stated that when the applicant reenlisted on April 21, 2004, there was no authority to pay him a second Zone A SRB. However, in an effort to provide the applicant with result that most closely resembles the bargain he claims, TJAG recommended that the Board void the April 2004 reenlistment contract and replace it with a 27-month extension contract, which, TJAG stated, was the actual minimum time required for the applicant to meet the obligated service requirement for his transfer.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 24, 2004, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within thirty days. No response was received.

APPLICABLE REGULATIONS

Article 3.C.4.a.6. of the Personnel Manual provides that to receive a Zone A SRB, the member cannot have previously received a Zone A SRB.

Article 4.B.6.a. states that service members E-4 and above, including active duty Reservists, with fewer than six years of active duty, will not be transferred unless they reenlist or extend to have enough obligated service for a full tour upon reporting to a new unit.

Article 4.A.5.b. states that the tour length for members with the applicant's pay grade serving aboard a Coast Guard cutter based in Boston, Massachusetts is three years.

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 21, 2004, the applicant signed a 4-year reenlistment contract for obligated service purposes and was counseled that he would receive a Zone A SRB. However, the applicant was not eligible for the SRB because he had already received a Zone A SRB for his April 2002 reenlistment. Article 3.C.4.a.6. of the Personnel Manual clearly states that to receive a Zone A SRB, the member cannot have previously received a Zone A SRB. In this case, the applicant received a Zone A SRB when he left the Reserves and enlisted into the Regular Coast Guard on April 17, 2002. Accordingly, he is not entitled to another Zone A SRB for his April 21, 2004, reenlistment.

3. The applicant was erroneously counseled regarding his entitlement to a second Zone A SRB when he reenlisted on April 21, 2004. However, when an applicant proves, as applicant does here, that he has received improper counseling, the Board's policy is not to 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. Therefore, if the applicant had been properly counseled, he would have been told that, in accordance with Article 3.C.4.a.6. of the Personnel Manual, he had already received a Zone A SRB and was not eligible to receive another SRB for his April 21, 2004, reenlistment.

4. The applicant requested that his April 21, 2004, reenlistment contract be canceled and replaced with a 14-month extension contract to meet his obligated service requirement. However, the applicant was required to obligate more than 14 months of service when he signed the April 2004 reenlistment contract to accept the transfer orders. Pursuant to Article 4.B.6.a. of the Personnel Manual, when the applicant accepted the transfer orders he was obligated to reenlist or extend to have enough obligated service for a full tour upon reporting to his new unit. In this case, the applicant was being assigned sea duty aboard a cutter and under Article 4.A.5.b was obligated to reenlist or extend to complete a full 3-year tour. The applicant reported to the cutter on June 24, 2004, and his end of enlistment date (EOE) before transfer was April 16, 2005. Therefore, he was required to obligate 2 years and 3 months of additional service prior to reporting to the cutter.

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 XXXXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is granted in part as follows:

The April 21, 2004, reenlistment contract shall be null and void. A 27-month extension contract dated April 21, 2004, shall be placed in his record.

Nancy L. Friedman

William R. Kraus

Eric J. Young