

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-153

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

This final decision, dated May 5, 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 her military record to show that she is entitled to a Zone B selective reenlistment bonus (SRB)¹ for reenlisting for four years on February 14, 2003. The applicant, who was a reservist on extended active duty (EAD)² at the time of her enlistment/reenlistment into the regular Coast Guard, alleged that she is entitled to the SRB because her previous active duty service causes her enlistment to be characterized as a reenlistment.

¹ 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 six years but no more than 10 years of active duty service are in "Zone B." COMDTINST 7220.33.

² Extended active duty is a program that allows the Coast Guard to fill "gaps" in billets with reservists possessing critical skill sets. The program is designed to fill rating pyramid gaps while not affecting advancements of active duty enlisted personnel.

SUMMARY OF THE APPLICANT'S RECORD

On April 1, 2002, the applicant, a former Coast Guard reservist with nearly twenty-two years of service in the regular Coast Guard and the Reserves, began EAD with the Coast Guard Reserve. On January 13, 2003, she requested permission to enlist in the regular Coast Guard. The Enlisted Personnel Management (EPM) Division of the Coast Guard Personnel Command (CGPC) granted her request and she was authorized to be discharged from the Reserves and to enlist/reenlist³ in the regular Coast Guard, effective February 14, 2003.

In late January or early February 2003, the applicant signed an enlistment/reenlistment contract for four years in the regular Coast Guard, pursuant to the authorization rendered by EPM and CGPC on January 13, 2003. The record is bereft of the enlistment/reenlistment documents, and there is no evidence that she was counseled regarding her entitlement to an SRB for this enlistment/reenlistment. At the time of her enlistment/reenlistment, the applicant had nine years, five months, and one day of total prior active service, including eight years in the regular Coast Guard from May 19, 1980, to April 26, 1988.

In February 2003, the applicant was assigned to the Coast Guard Training Center (TRACEN) Petaluma as an instructor for the Operations Specialist "A" school. The record contains a statement from a yeoman at TRACEN, who alleged that in September 2003, he determined that the enlistment/reenlistment contract signed by the applicant at her previous duty station for her entry in the regular Coast Guard was erroneous. The yeoman alleged that the contract was, in fact, a four-year reenlistment contract for the Coast Guard *Reserve*, instead of a contract for the *regular* Coast Guard. The yeoman at Petaluma took steps to correct the error, and on March 18, 2004, the applicant was assessed into active duty with the regular Coast Guard effective February 14, 2003. The applicant signed a backdated DD Form 4/1, "Enlistment/Reenlistment Document", which is used to record enlistment or reenlistment into the U.S. Armed Forces. The yeoman also alleged that the applicant was eligible for a Zone B SRB for her enlistment/reenlistment, and the "Remarks" section of the DD Form 4/1 states the following:

IAW [ALCOAST] 329/02 MEMBER IS AUTH ZONE B SRB MULTIPLE OF 2
FOR 48 MONTHS OF NEWLY OBLIGATED SERVICE.

³ CGPC did not specify if the applicant was authorized to "enlist" or "reenlist". Whether the applicant's February 14, 2003, enlistment should be characterized as an "enlistment" or a "reenlistment" is the core issue in this case.

The record also contains an administrative remarks (page 7) entry, backdated to February 13, 2003, and completed at TRACEN Petaluma, documenting counseling that the applicant was eligible for an SRB for her February 14, 2003, enlistment/reenlistment.

VIEWS OF THE COAST GUARD

On October 18, 2004, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny the applicant's request. The JAG argued that the applicant is not entitled to relief because she did not meet the criteria to receive an SRB for her February 14, 2003, enlistment/reenlistment.

The JAG noted that the applicant requested to enlist in the regular Coast Guard on January 13, 2003. This request was approved and she was discharged from the Coast Guard Reserve and enlisted into the regular Coast Guard on February 14, 2003. The JAG stated that Article 1.G.1.a. of the Coast Guard Personnel Manual provides that the enlistment of Coast Guard Reserve personnel who are serving on EAD for twelve months or more shall be considered a reenlistment. The JAG alleged that the applicant's time on EAD with the Reserves was only ten months, and thirteen days. Accordingly, the JAG alleged, the applicant was not eligible for an SRB because she did not serve on EAD with the Reserves for the requisite twelve months, and thus her contract on February 14, 2003, should be characterized as an enlistment, *not* a reenlistment.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 19, 2004, the Chair sent a copy of the views of the Coast Guard to the applicant and invited her to respond within 30 days. On October 27, 2004, the applicant requested an extension of time to file her response to the Coast Guard's advisory opinion. The Chair granted that request and the applicant was given until January 17, 2005, to file her response. No response was received.

APPLICABLE LAW

Article 1.G.1.a. of the Coast Guard Personnel Manual provides that "the enlistment of any person who has previously served in the Regular Coast Guard shall be considered a reenlistment. The enlistment of Coast Guard Reserve personnel who are serving on extended active duty and who have served on extended active duty for 12 months or more shall be considered a reenlistment."

Article 3.C.4.b. of the Personnel Manual states that to receive a Zone B SRB, the member must meet the following criteria:

1. Reenlist not later than 3 months after discharge or release from active duty in a

rating authorized an SRB multiple.

2. Have completed 17 months continuous active duty (including extended active duty as a Reserve) at any point in their military career. The 17 months continuous active duty need not have been completed immediately prior to the reenlistment or extension.
3. Have completed at least 6 but not more than 10 years active service on the date of reenlistment or the operative date of the extension.
4. Be serving in pay grade E-5 or higher. Personnel who are changing rate, as approved by the Commandant, are eligible as an E-4 provided they were E-5 or higher immediately prior to changing rate.
5. Reenlist or extend enlistment in the Regular Coast Guard for a period of at least 3 full years, provided the reenlistment or extension, when added to existing active service, will provide a total active duty of no less than 10 years.
6. Have not previously received a Zone B SRB.
7. Attain eligibility prior to the termination of a multiple for that particular rating.
8. Meet any additional eligibility criteria the Commandant may prescribe.

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 filed.
2. The JAG recommended that the Board deny relief because pursuant to Article 1.G.1.a. of the Personnel Manual, the applicant did not serve on EAD with the Reserves for the requisite twelve months, and thus her February 14, 2003, contract should be characterized as an enlistment. However, the JAG's assessment ignores the first sentence of Article 1.G.1.a, which states that the enlistment of any member who previously served in the regular Coast Guard shall be considered a reenlistment. The Board finds that the JAG's reliance on the second sentence of Article 1.G.1a. is erroneous, because the second sentence clearly applies to EAD members enlisting in the

regular Coast Guard who have *never* served on regular active duty. Such is not the case here.

3. The Board finds that the applicant's February 14, 2003, contract should be characterized as a reenlistment. The first sentence of Article 1.G.1.a. of the Personnel Manual provides that "the enlistment of any person who has previously served in the Regular Coast Guard shall be considered a reenlistment." The applicant's Coast Guard record indicates that she served in the regular Coast Guard from May 19, 1980, to April 26, 1988. Thus, the Board finds that when the applicant signed the reenlistment contract on February 14, 2003, she had previously served nearly eight years in the regular Coast Guard and hence her entry into the regular Coast Guard on February 14, 2003, was a reenlistment.

4. The Board finds that because the applicant's enlistment into the regular Coast Guard on February 14, 2003, was a reenlistment, she is entitled to a Zone B SRB calculated with a multiple of 2 in accordance with ALCOAST 329/02. The applicant is entitled to an SRB because she satisfies all of the eligibility requirements for a Zone B SRB set forth in Article 3.C.4.b. of the Personnel Manual. Specifically, Article 3.C.4.b. provides "to receive a Zone B SRB, the member must reenlist not later than 3 months after discharge or release from *active duty* in a rating authorized an SRB multiple." In this case, the applicant was on *extended active duty* the day before she reenlisted. Therefore, she reenlisted less than three months after her discharge from active duty and is entitled to the SRB.

5. Accordingly, relief should be granted.

ORDER

The military record of XXXXXXXXXXXXXXXXXXXXXXX, USCG, shall be corrected to show that she reenlisted, rather than enlisted, in the regular Coast Guard for four years on February 14, 2003, and therefore became entitled to a Zone B SRB as provided under ALCOAST 329/02. The Coast Guard shall pay her the amount due as a result of this correction.

Quang D. Nguyen

Dorothy J. Ulmer

Eric J. Young