

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2007-054

XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FINAL DECISION

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case on December 29, 2006, upon receipt of the applicant's completed application, and assigned it to staff members D. Hale and J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated August 30, 2007, is approved and 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 by replacing his July 26, 2002, six-year extension contract with a six-year reenlistment contract. He stated that upon receiving transfer orders to the Coast Guard Integrated Support Command (ISC) and the Coast Guard Cutter *Healy* in Seattle, he was counseled by a Coast Guard yeoman¹ that he was eligible to reenlist or extend for up to six years for a Zone B Selective Reenlistment Bonus (SRB).² The applicant alleged that the counseling was erroneous because the yeoman failed to determine that he would not be eligible for a Zone B SRB because he would have more than 10 years of active service when his extension became operative.³

¹ Coast Guard yeomen are "key problem-solvers, counselors and sources of information to personnel on questions ranging from career moves, entitlements and incentive programs, to retirement options and veteran's benefits." <http://www.gocoastguard.com/ratings/ynrate.htm>

² 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 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.

³ To be eligible for a Zone B SRB, a member must have completed "at least 6 years but not more than 10 years of active service on the date of reenlistment or operative date of the extension." Coast Guard Personnel Manual, Article 3.C.4.b.3.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on December 14, 1993. In 2002 he received transfer orders to the ISC in Seattle/*CGC Healy*, and on July 19, 2002, he was counseled with a Page 7⁴ stating that he was eligible to reenlist or extend his enlistment up to six years for an SRB and that it would be computed based on 72 months of newly obligated service.

On July 26, 2002, the applicant signed a six-year extension contract to “obligate service for transfer” and the contract became operative on December 13, 2005. The extension contract contains a section in which he acknowledged having (1) received a copy of “SRB Questions and Answers” based on the Commandant’s SRB Instruction; (2) had the opportunity to read the SRB Instruction; (3) understood the effect of his extension on his future SRB eligibility; and (4) had all his questions about his SRB entitlement answered. When the applicant reported to ISC Seattle on October 1, 2002, his EOE date was December 12, 2005. On October 12, 2002, he reported to the *Healy*. A full tour on the *Healy* is three years.

VIEWS OF THE COAST GUARD

On May 17, 2007, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended granting alternative relief. The JAG stated that the applicant was not required to extend his enlistment on July 26, 2002, because he still had more than three years remaining on his enlistment when he signed the extension contract and did not need to obligate service for the transfer to ISC Seattle. Accordingly, the JAG stated that if the applicant had been properly counseled when he received his transfer orders, he would have been advised to reenlist within three months prior to his 10th anniversary (December 14, 2003), to receive a Zone B SRB.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 24, 2007, the BCMR sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. The Board did not receive a response.

APPLICABLE REGULATIONS

Article 1.G.8.a. of the Coast Guard Personnel Manual provides that a member may only reenlist within three months from their end of enlistment (EOE) date.

Article 3.C.5.5. of the Personnel Manual provides that under no circumstances will an individual be permitted to extend their enlistment more than three months early for SRB purposes alone. However, a member may extend when required to obligate service for transfer, training, advancement, or tuition assistance.

⁴ A Page 7 (CG-3307, or Administrative Remarks) entry documents any counseling that is provided to a service member as well as any other noteworthy events that occur during that member’s military career.

Article 3.C.5.9. of the Personnel Manual provides that Commanders are authorized to effect early discharge and reenlist members within three months prior to their 10th year anniversary, for the purpose of qualifying for an SRB.

Article 4.B.6.a. of the Personnel Manual states that assignment officers will normally not transfer service members E-4 and above with fewer than six years of active duty unless they reenlist or extend to have enough obligated service for a full tour upon reporting to a new unit.

Article 4.C.11.b.9. of the Personnel Manual states that members assigned to a polar icebreaker must have enough active obligated service to complete the tour of duty.

ALCOAST 585/01 was issued on December 20, 2001, and was in effect from February 1, 2002, through August 4, 2002. Under ALCOAST 585/01, MK1s in Zone B were eligible for an SRB calculated with a multiple of 2.0.

ALCOAST 182/03 was issued on April 24, 2003, and was in effect from July 1, 2003, through July 31, 2004. Under ALCOAST 182/03, MK1s in Zone B were eligible for an SRB calculated with a multiple of 2.0.

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 section 1552 of title 10 of the United States Code. The application was timely.

2. The applicant alleged that he was erroneously counseled that he was eligible to receive a Zone B SRB for signing a six-year extension contract. The record contains a July 19, 2002, Page 7 documenting that the applicant was eligible to extend his enlistment for up to six years and that his SRB would be computed based on 72 months of newly obligated service. This counseling was erroneous because under 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 not more than 10 years active service on the date of reenlistment or the operative date of the extension." The applicant's July 26, 2002, extension contract became operative on December 13, 2005, but his 10th anniversary on active duty was December 14, 2003. Accordingly, the applicant was not eligible for the SRB because he had more than 10 years of active service on the operative date of the extension.

3. The applicant's record also contains a July 26, 2002, six-year extension contract which states that he would receive a Zone B SRB based on 72 months of newly obligated service. This information is incorrect because, as noted in Finding No. 2, he was ineligible for the SRB because he would have more than 10 years of active service on the operative date of the extension. The Board also notes that there was no authority for the applicant to extend his enlistment on July 26, 2002. Pursuant to Article 3.C.5.5. of the Personnel Manual, a member is allowed to extend when required to obligate service for transfer, training, advancement, or tuition assistance. The applicant had more than three years remaining on his enlistment when he reported to ISC Seattle on October 1, 2002, and was not required to obligate additional service

for the transfer. Accordingly, there was no authority for him to extend his enlistment on July 26, 2002.

4. The Board finds that if the applicant had been properly counseled, he would have been advised that since he was not eligible to extend his enlistment for an SRB on July 26, 2002, he should wait and reenlist on his 10th anniversary (December 14, 2003) for a Zone B SRB, pursuant to ALCOAST 182/03. Personnel Manual, Article 3.C.5.9.

5. In his application, the applicant asked the Board to correct his record by replacing his July 26, 2002, six-year extension contract with a six-year reenlistment contract. However, the Board is unable to grant this request because there was no authority for the applicant to reenlist on July 26, 2002. Pursuant to Article 1.G.8.a. of the Personnel Manual, a member may reenlist within three months of the end of their enlistment, or within three months prior to their 6th or 10th anniversary. When the applicant signed an extension contract on July 26, 2002, his EOE date was December 12, 2005, and his 10th anniversary was December 14, 2003. Thus, he was not eligible to reenlist until September 12, 2003 (90 days prior to his 10th anniversary).

6. Accordingly, relief should be granted by voiding the applicant's July 26, 2002, extension contract and reenlisting him for six years on his 10th anniversary, December 14, 2003, to receive a Zone B SRB pursuant to ALCOAST 182/03.⁵

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

⁵ Reenlisting the applicant on December 14, 2003, in lieu of September 12, 2003, will presumably result in a larger SRB, since it will be reduced by less previously obligated service.

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is granted. His record shall be corrected to show that he reenlisted for six years on his 10th active duty anniversary to receive a Zone B SRB as provided under ALCOAST 182/03. The Coast Guard shall remove his July 26, 2002, extension contract from his record as null and void. The Coast Guard shall pay him the amount due as a result of these corrections.

Francis H. Esposito

Nancy L. Friedman

Darren S. Wall