

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2008-041

**XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX**

FINAL DECISION

This proceeding was conducted according to 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 14, 2008, upon receipt of the applicant's completed application, and subsequently prepared the final decision for the Board as required by 33 CFR § 52.61(c).

This final decision, dated September 11, 2008, 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 military record to show that he elected to have his Zone A selective reenlistment bonus (SRB) paid to him in a lump sum. He became entitled to the SRB when he reenlisted for six years on June 16, 2007. He stated that he requested a lump sum payment of the SRB, but he received only 50% of it in November 2007.

SUMMARY OF RECORD

On June 17, 2003, the applicant enlisted in the Coast Guard for four years. On June 16, 2007, he reenlisted for six years for which he received a Zone A SRB. Although the applicant's headquarters personal data record (PDR) did not contain the administrative remarks (page 7) SRB counseling entry with respect to his June 16, 2007 reenlistment, his unit PDR did have the required page 7. The page 7 entry dated June 16, 2007, stated the following:

I have been advised that my current selective reenlist bonus (SRB) multiple is 1.5 and is listed in ALCOAST 283/06, which has been made available to me. I am eligible to reenlist/extend my enlistment up to a maximum of 06 years. My SRB will be computed based on 72 months of newly obligated service. I hereby acknowledge that I have read and fully understand the contents and explanation of COMDTINST 7220.33 (series). I have also been counseled on the opportunity to have my SRB payment contributed to the Thrift Savings Plan.

VIEWS OF THE COAST GUARD

On April 23, 2008, the Judge Advocate General (JAG) of the Coast Guard recommended that the Board deny the applicant's request. The JAG stated the following:

Applicant is requesting a lump sum payment of his SRB in connection with his reenlistment on 16 June 2007. Per ALCOAST 304/07, paragraph 7. stated in part, "All requests for lump sum payment of members remaining SRB installments must be submitted via message to arrive at PSC (MAS) [no later than] 20 July 2007. Units are requested to info their SPO on the message and should include all members requesting lump sum payment on the same message. If PSC does not receive notification by COB on 20 July 2007, the member's regular SRB installment payments will continue as scheduled. Absolutely no requests will be considered after this date." After a review of the applicant's record, it appears that applicant did not request a lump sum payment of his SRB prior to the 20 July 2007 deadline.

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On May 1, 2008, a copy of the Coast Guard views was mailed to the applicant and he was given 30 days to submit a response. The Board did not receive a reply from the applicant.

APPLICABLE REGULATION

ALCOAST 304/07

ALCOAST 304/07 was issued on June 15, 2007 and contained the following pertinent provisions pertinent to this case:

4. During the next year, the SRB program will be transitioning from an installment payment program to a lump sum payment program. Effective immediately until further notice, members who are reenlisting or extending their enlistments in order to receive Zone-A or Zone-B SRBS have the choice to receive their bonus under the current installment plan , , , or receive a lump sum bonus payment at 85 percent of the installment program amount.

* * *

4.B. . . . Unit COS and OICS shall ensure the following statement is added to the required SRB administrative remarks of members choosing lump sum payments: "I hereby acknowledge that I have elected the lump sum SRB payment option and will receive 85 percent of the installment payment program amount." Required administrative remarks entries are shown in Article 3.C.11. of [the Personnel Manual] . . .

* * *

6. Unique opportunity for current SRB recipients. Current SEB recipients who meet the following requirements may elect to receive a lump sum payment in the amount of their remaining SRB installments. [Members] who chose to receive this lump sum payment will have their remaining SRB balance paid off.

A. [Member] must have at least one SRB installment remaining. [Members] with one installment remaining will receive an accelerated payment of this final installment.

B. [Member] must have signed a reenlistment or extension contract prior to 16 July 2007 for the purpose of receiving a Zone –A or Zone-B SRB.

C. [Member] cannot have SRB installments that are being held in abeyance or that are undergoing recoupment action.

7. All requests for lump sum payment of [member's] remaining SRB installments must be submitted via message to arrive at PSC (MAS) not later than 20 July 2007. Units are requested to info their SPO on the message and should include all members requesting lump sum payment on the same message. If PSC does not receive notification by COB on 20 July 2007, the member's regular SRB installment payments will continue as scheduled. Absolutely no requests will be considered after this date. All [members] taking advantage of this opportunity should see the lump sum payment not later than 15 September 2007 pay day. It is important to note that this lump sum payment program is different from the program described in para. 4.B., as the member will received 100 percent of the amount owed (less taxes).

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 10 U.S.C. § 1552. The application was timely.

2. The applicant failed to prove that the Coast Guard committed an error by not paying his SRB to him in a lump sum. He alleged that he asked to have it paid in a lump sum, but he offered no corroboration for his allegation. When the applicant reenlisted on June 16, 2007, he had the option under ALCOAST 304/07 issued on June 15, 2007 of having his SRB paid in a lump sum or in installments. The ALCOAST is clear that the provision implementing the lump sum payment option was effective immediately. Under the ALCOAST, the Coast Guard was required to document on the page 7 SRB counseling entry (that is required whenever a member reenlists or extends) a member's request for the lump sum SRB payment. However, the ALCOAST did not require any documentation if a member did not elect the lump payment option. The applicant's page 7 SRB counseling entry does not reflect that he elected the lump sum payment option, and without sufficient evidence to the contrary, the Board presumes that

Coast Guard officials carried out their duties correctly, lawfully, and in good faith. *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992). As stated above, the applicant has presented no evidence that the page 7 counseling entry as it appears in his military record is in error; nor has he presented any evidence, except for his own statement, that he requested the lump sum SRB option at the time he signed the page 7 counseling entry.

3. Although the applicant did not elect the lump sum SRB payment when he executed his reenlistment contract on June 16, 2007, he still could have requested a lump sum payment under para. 7. of ALCOAST 304/07. This provision allowed members who were currently receiving payments on the installment plan and who entered into their contracts prior to July 16, 2007, to request a lump sum payment of any remaining SRB installments. However, such requests for lump sum payments had to be submitted in a message format and must have arrived at PSC by July 20, 2007. As the Coast Guard stated, there is no evidence that the applicant requested a lump sum payment of his SRB by the July 20, 2007 deadline. The Board notes that the applicant did not submit a response to the advisory opinion, although this issue was clearly raised in that document.

4. Accordingly, the applicant has not shown that the Coast Guard committed an error or injustice in this case and it should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is denied.

Philip B. Busch

Kathryn Sinniger

Dorothy J. Ulmer