

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2009-023

XXXXXXXXXX.
xxxxxxx, BM2/E-5

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 November 14, 2008, 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 July 16, 2009, 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, a boatswain's mate, second class (BM2), asked the Board to correct his record to show that he is eligible to receive a Zone A selective reenlistment bonus (SRB)¹ for signing a 4-year enlistment/reenlistment contract on September 30, 2008. He stated that although his contract shows that he was entitled to the bonus, he never received the bonus and "was misled to believe I was eligible for the bonus by unit and SPO offices." The applicant also submitted a copy of a Page 7² which purports to show that he was counseled on October 8, 2008, that he was eligible to reenlist for a maximum of 6 years for an SRB under ALCOAST 304/07.

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, which is published in an ALCOAST. Coast Guard members who have at least 21 months but no more than 6 years of active duty service are in "Zone A", while those who have more than 6 but less than 10 years of active duty service are in "Zone B". Members may not receive more than one SRB per zone. Coast Guard Personnel Manual, Articles 3.C. and 3.C.4.a.

² 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.

SUMMARY OF THE RECORD

On December 9, 2002, the applicant enlisted in the Coast Guard Reserve for a term of eight years, through December 8, 2010. He completed BM "A" School on October 1, 2004. On November 1, 2007, he was called to active duty in the Reserve under Title 10. On September 30, 2008, the applicant integrated into the regular Coast Guard by signing a four-year enlistment/reenlistment contract. His Reserve DD 214 dated September 29, 2008, shows that he had completed 10 months, 29 days of active duty and had previously completed six months and 23 days of active duty. The contract states that he is "entitled to a Zone "A" SRB with multiple 1.2 based on 48 months newly obligated service."

VIEWS OF THE COAST GUARD

On April 6, 2009, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion and recommended that the Board deny relief in this case. The JAG stated that although the applicant's September 30, 2008, enlistment/reenlistment contract states that he was entitled to receive an SRB, he was not eligible for an SRB because he served only 11 months on active duty when he integrated into the regular Coast Guard, and a reservist must have served at least 12 months continuous active duty for an enlistment in the regular Coast Guard to be considered a reenlistment. The JAG also stated that the applicant's active duty base date³ (ADBD) needs to be adjusted before any decision can be made with regards to his SRB eligibility.

RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 10, 2009, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. The Chair did not receive a response.

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.a. of the manual states that to receive a Zone A 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.

³ A member's active duty base date is the date the member entered active duty for pay purposes.

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 not more than 6 years active service on the date of reenlistment or the date on which the extension becomes operative.
4. Be serving in pay grade E-3 or higher on active duty in a rating that is designated as eligible for an SRB multiple.
5. Reenlist or extend enlistment in the regular Coast Guard for a period of at least 3 full years.
6. Have not previously received a Zone A 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.

ALCOAST 286/08 was issued on June 13, 2008, and went into effect on July 16, 2008. Under ALCOAST 286/08, BM2s are eligible for a Zone A SRB calculated with a multiple of 1.2.

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. The applicant alleged that he was promised an SRB for signing a 4-year reenlistment contract on September 30, 2008, but that he never received the bonus. 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 extended active duty (EAD) with the Reserves for the requisite 12 months, and thus his contract was an enlistment, rather than a reenlistment, and SRBs are not available to members signing enlistment contracts. Although the JAG stated that the applicant's ADBD needs to be adjusted before a decision can be made, the applicant's DD 214 dated September 29, 2008, clearly shows that he had previously served 6 months and 23 days on active duty and had just completed 10 months and 29 days of active duty under Title 10. Therefore, recalculating his ADBD is not needed to determine his eligibility for an SRB.

3. The applicant's record contains an enlistment/reenlistment contract dated September 30, 2008, stating that he was eligible to receive an SRB for signing a 4-year contract. However, the applicant was not eligible to receive an SRB for signing an enlistment/reenlistment contract on September 30, 2008, for two reasons: First, Article 1.G.1.a. of the manual states that the enlistment of Coast Guard Reserve personnel who are serving on EAD and who have served on EAD for 12 months or more shall be considered a reenlistment. The applicant had served as a

reservist on EAD for only 10 months and 29 days, from November 1, 2007, through September 29, 2008. Thus, he “enlisted” in the regular Coast Guard on September 30, 2008, and did not “reenlist” in the regular Coast Guard. Second, pursuant to Article 3.C.4.a.2. of the manual, to receive a Zone A SRB a member must have completed 17 months of continuous active duty at any point in their military career. On September 30, 2008, the applicant had completed only 10 months and 29 days of continuous active duty and he had prior active duty periods adding up to 6 months and 23 days.

4. Given the evidence on the Page 7 and on the contract dated September 30, 2008, the Board finds that the applicant has proved by a preponderance of the evidence that he was erroneously promised a Zone A SRB for signing the 4-year contract to integrate from EAD in the Reserve to the regular Coast Guard. If the applicant had been correctly counseled about his SRB eligibility, he would have known that he needed 17 months of continuous active duty to be eligible for a Zone A SRB, and he might have remained on EAD as a reservist through March 31, 2009, by which date he would have accumulated 17 months of continuous active duty. Then he could have reenlisted in the regular Coast Guard on April 1, 2009, to receive the SRB because ALCOAST 286/08 was still in effect on that date. The Board notes that the applicant’s Title 10 orders were set to expire on October 31, 2008, and it is not clear from the record whether he would have been allowed to remain on active duty past that date if he had not already integrated into the regular Coast Guard on September 30, 2008. However, given the applicant’s designated critical skill rating (BM2) and the lack of any statement from the Coast Guard denying that he would have been allowed to remain on EAD as a reservist past October 31, 2008, the Board will not presume that the applicant would have been unable to remain on active duty as a reservist past the scheduled expiration of his Title 10 orders. In light of the erroneous promise of the SRB and the possibility that the applicant could have remained on active duty as a reservist through March 31, 2009, and reenlisted in the regular Coast Guard on April 1, 2009, to receive the promised SRB, the Board finds that relief should be granted by correcting the date of the applicant’s integration from September 30, 2008, to April 1, 2009, so that he may be eligible for the SRB.

5. Accordingly, the applicant’s record should be corrected to show that he did not integrate into the regular Coast Guard on September 30, 2008, but that instead he continued as a member of the Reserve serving on EAD through March 31, 2009, and integrated into the regular Coast Guard on April 1, 2009, by signing a 4-year reenlistment contract to receive a Zone A SRB in accordance with ALCOAST 286/08.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXX, XXXXXXXX, USCG, for correction of his military record is granted as follows:

The Coast Guard shall correct his military record to show that he did not integrate into the regular Coast Guard on September 30, 2008, and that, instead, he continued serving on extended active duty as a member of the Reserve through March 31, 2009, and integrated into the regular Coast Guard on April 1, 2009, by signing a 4-year reenlistment contract to receive a Zone A SRB in accordance with ALCOAST 286/08. His DD 214 dated September 29, 2008, shall be corrected to reflect that he was discharged from active duty in the Reserve on March 31, 2009, instead of September 29, 2008. The Coast Guard shall pay him any amount due as a result of these corrections.

Lillian Cheng

Nancy L. Friedman

Vicki J. Ray