



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No: 5219-22
Ref: Signature date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED],
USNR (RET), XXX-XX-[REDACTED]

Ref: (a) 10 U.S.C. § 1552
(b) DoDM 1348.33 of 7 May 21
(c) SECNAV M-1650.1 of 16 Aug 1991
(d) SECNAV 1650.1F of 8 Aug 1991

Encl: (1) DD Form 149 w/ enclosures
(2) Advisory Opinion (AO) of 4 Nov 22

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board) requesting that his Meritorious Service Medal issued during combat conditions be corrected to a Bronze Star Medal. Enclosures (1) and (2) apply.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 18 November 2022, and, pursuant to its regulations, determined that the corrective action indicated below should be taken. Documentary material considered by the Board consisted of Petitioner's application together with all material submitted in support thereof, relevant portions of Petitioner's naval record, applicable statutes, regulations, and policies, to include references (b) through (d).

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits.

b. While serving as an officer in the Navy Reserve, Petitioner was ordered to active duty on 29 January 1991. From 3 February 1991 through 23 May 1991, he served aboard the [REDACTED]. This period of service aboard the ship was under a special approval by the Secretary of the Navy for receipt of the Combat Action Ribbon (CAR).

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c. Petitioner was nominated by Commander, Middle East Force, for award of the Bronze Star Medal (BSM); however, this award was converted to a Meritorious Service Medal (MSM) and subsequently approved as a Navy and Marine Corps Commendation Medal (NC) in December of 1991.

d. Petitioner communicated with the Flag Officer who had submitted the award regarding the issue of the NC, which resulted in the award being upgraded to an MSM in March of 1993. Consistent with his eligibility for the CAR during this period of service, the citation for this award specified that Petitioner's actions were performed under combat conditions.

e. Upon conclusion of his combat deployment, Petitioner was released from active duty on 10 June 1991 and issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for his period of service. This DD Form 214 lists the following authorized awards in block 13: "Navy Achievement Medal, Armed Forces Expeditionary Medal, Expert Rifle, Navy Unit Commendation, Navy Expeditionary Medal, Sea Service Ribbon (2), Expert Pistol, National Defense Service Medal, Overseas Service Ribbon, Navy Commendation, Armed Forces Reserve Medal, Battle "E" Ribbon."

f. Petitioner contends that issuing his MSM for the period of his service under combat conditions was an error and the correct award should have been a BSM.

g. Because Petitioner contends entitlement to the BSM, the Board requested the AO at enclosure (2) for consideration, provided by the Navy Department Board of Decorations and Medals (NDBDM). The AO explained that award of the MSM did not comply with award policy because the award of the MSM is limited to noncombat service and, thus, prohibited when service is under combat conditions. The AO specified that the BSM is awarded as the counterpart to the MSM for meritorious service while engaged in action against an enemy of the United States. The AO noted that the conditions of Petitioner's eligibility for, or receipt of, the CAR for this period of service substantiates that his service was under combat conditions; further, the AO observed that Petitioner's MSM citation specifies that his service during the award period was under combat conditions. As a result, the AO concluded that Petitioner's accomplishments clearly met the threshold of merit for the BSM and that award of the MSM was improper.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concluded that Petitioner's request warrants favorable action in the form of relief. The Board reviewed this application under the guidance provided in references (b) through (d) which establishes policy for military awards.

The Board concurred with the AO regarding the evidence of Petitioner's service during the period of his MSM award having been under combat conditions, thus rendering award of the MSM erroneous when the proper award designated by applicable regulations and policy should have been the BSM. Additionally, the Board noted the AO specified that Petitioner was also either eligible for, or had received, the CAR; however, the Board observed that this award was

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not documented in the authorized awards of block 13 of his DD Form 214. Accordingly, the Board determined that it is in the interest of justice to grant the requested relief, rescind the award of the MSM for the period from 3 February 1991 through 23 May 1991, issue Petitioner the correct award of the BSM for the same period, review his awards to confirm appropriate action was taken with respect to his eligibility for the CAR, and make applicable corrections to his service record and DD Form 214.

In view of the foregoing, the Board finds the existence of an error warranting the following corrective action.

RECOMMENDATION:

That Petitioner receive a thorough review of his eligibility for and receipt of combat-related awards for the period of his combat service from 3 February 1991 through 23 May 1991 and, thereafter, that he be issued a Correction to Certificate of Release or Discharge from Active Duty (DD Form 215) reflecting his entitlement to the BSM and any other eligible awards.

Further, that his DD Form 215 correction only include the award of the NC if he received an NC on or before 10 June 1991 which was separate and distinct from the NC issued for his period of combat service from 3 February 1991 through 23 May 1991 which was subsequently upgraded to an MSM.

That Petitioner be issued a citation and medal for the BSM.

That reference to the MSM issued for the period of the BSM shall be removed from Petitioner's record, to include the citation for the MSM as well as the originally issued NC citation which was upgraded to the MSM.

That no further changes be made to Petitioner's record.

A copy of this report of proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)), and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

12/6/2022

[REDACTED]
Executive Director

Signed by: [REDACTED]