

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2014-044**

[REDACTED]

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**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. After receiving a completed application on January 27, 2014, the Chair docketed the case and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 19, 2014, 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, who was discharged on April 14, 1991, asked the Board to correct his discharge form DD 214 to show that he participated in Operation Desert Shield, qualified as a law enforcement Boarding Officer, and was a [REDACTED]

[REDACTED] The applicant stated that these facts should appear on his DD 214 but they do not. The applicant did not explain why he waited more than twenty years to request correction of his DD 214 but argued that the Board should consider his request on the merits because on December 28, 2012, he compared his DD 214 to someone else's and realized the entries were missing from his DD 214. In support of his request the applicant submitted copies of his own DD 214s.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on November 5, 1979, and completed basic training ten weeks later. The orders documenting his completion of basic training and transfer to another unit show his qualifications with a pistol and M16 rifle but do not reflect any training or service as a [REDACTED].

Following basic training, the applicant served at shore units in [REDACTED], and [REDACTED]. From April to July 1981, he attended [REDACTED] "A" School in [REDACTED], to earn the [REDACTED] rating. He completed training, advanced to [REDACTED] and from [REDACTED]

August 1981 to June 1984, performed word processing duties on [REDACTED]. Beginning in June 1984, the applicant served on an [REDACTED], for more than three years, making voyages beyond both the [REDACTED]. His record shows that he was frustrated by his [REDACTED] duties and so was reassigned to the Deck Department.

In September 1987, the applicant's request to change ratings was approved and he was transferred to attend [REDACTED] "A" School in [REDACTED], to become a [REDACTED]. In December 1987, he completed training and was transferred to Station [REDACTED] in [REDACTED]. In June 1988, he was reassigned to Station [REDACTED], where he served until his discharge. In February 1989, he completed a two-week Boarding Team Member Course, which is shown on his final DD 214.

On April 14, 1991, following testing and consultations, the applicant received an honorable discharge due to a learning disability that was preventing him from advancing in rate.

### IEWS OF THE COAST GUARD

On June 26, 2014, the Judge Advocate General submitted an advisory opinion in which he recommended that the Board deny relief in this case and adopted the findings, analysis, and recommendation provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC alleged that the applicant's request is untimely and should be denied. Regarding the merits of the application, PSC stated that the applicant's requests lack merit for the following reasons:

- The applicant's military record does not reflect any foreign service or Kuwait Liberation Medal, which would have been awarded if he had participated in Operation Desert Shield. The applicant served at Station [REDACTED] in [REDACTED] from June 15, 1988, until his discharge on April 14, 1991, and there is no evidence that he performed duty "in the prescribed geographical areas during the specified timeframe or supported missions for Operation Desert Shield."
- The applicant's records do not show that he completed [REDACTED] PSC stated that the applicant attended regular basic training from November 5, 1979, to January 11, 1980, but did not attend [REDACTED] and was not assigned to [REDACTED] after he completed basic training.

PSC did not expressly address the applicant's request about being a qualified Board Officer but stated that the applicant's DD 214 "is accurate and complete."

### APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 30, 2014, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to submit a written response within thirty days. No response was received.

### APPLICABLE REGULATIONS

COMDTINST M19000.D contains the instructions for completing DD 214s. It provides that all medals and awards are to be listed in block 13, and block 14 should contain the service schools and training courses that the member attended during the period of active duty covered by the DD 214. For block 18, "Remarks," the instruction allows "[o]nly the entries specified below or in supplementary directives." The list of permissible entries does not mention Operation Desert Shield, qualification as a Boarding Officer, or service as a Regimental Company Commander.

Enclosure (19) to the Medals and Awards Manual, COMDTINST M1650.25D, states that states that a Special Operations Service Ribbon was authorized for the initial Reserve mobilization that occurred for Operation Desert Shield from August 2 through September 28, 1990, and for operations pursuant to Desert Shield/Storm from August 2, 1990, through June 21, 1991. To be eligible for the ribbon, personnel must have served in a specific geographically defined area or at a unit that was "specifically recommended by the operational commander as having participated in and significantly contributed to the accomplishment of the operation," and the member must have "engaged in direct support of an operation for 21 consecutive days, or for the total operation if less than 21 days. Direct support is defined as the supply by personnel, vessels, or aircraft, of service and/or supplies and equipment, in sole support of special operations."

### 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.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.<sup>1</sup> Although the applicant alleged that he discovered the error in his record in 2013, he received and signed his DD 214 in 1991. Therefore, the preponderance of the evidence shows that the applicant knew in 1991 that his DD 214 does not reflect participation in Operation Desert Shield, qualification as a Boarding Officer, or service as a Regimental Company Commander. Therefore, his application is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>2</sup> In *Allen v. Card*, the court stated that the Board should not deny an application for untimeliness without "analyz[ing] both the reasons for the delay and the potential merits of the claim based on a cursory review"<sup>3</sup> to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that "the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review."<sup>4</sup>

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<sup>1</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

<sup>2</sup> 10 U.S.C. § 1552(b).

<sup>3</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

<sup>4</sup> *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

4. The applicant did not explain why he waited more than twenty years to challenge the alleged incompleteness of his DD 214. The Board finds that the applicant's argument about why the Board should excuse his delay is not compelling because he has failed to show that anything prevented him from seeking correction of the alleged errors more promptly.

5. A cursory review of the record shows that the applicant's claims cannot prevail for the following reasons:

- The record shows that the applicant completed Boarding Team Member training, which was properly documented in block 14 of his DD 214, but he was never certified as a Boarding Officer.
- The applicant was assigned to Station [REDACTED] from June 1988 until his discharge in April 1991, and there is no evidence that his unit participated significantly in Operation Desert Shield/Storm or that the applicant was engaged in support of the operation for twenty-one consecutive days.
- There is no evidence that the applicant ever trained or served as a [REDACTED]

The record before the Board contains no evidence that substantiates the applicant's allegations of error on his DD 214, which is presumptively correct.<sup>5</sup>

6. Accordingly, the Board will not excuse the application's untimeliness or waive the statute of limitations. The applicant's request should be denied.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>5</sup> 33 C.F.R. § 52.24(b); see *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties "correctly, lawfully, and in good faith.").

**ORDER**

The application of former [REDACTED], USCG, for correction of his military record is denied.

September 19, 2014

