

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2021-059


BM3

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on April 7, 2021, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated September 15, 2023, 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 former Boatswain's Mate, Third Class, (BM3/E-4), who was Honorably discharged on December 8, 1994, asked the Board to correct his DD-214 to reflect a rank of BM2/E-5, which the applicant alleged he received prior to his discharge. The applicant also asked the Board to correct errors on his DD-214 regarding his rifle and pistol qualifications and to add his Coxswain Badge, National Defense Service Medal, and USCG Bicentennial Ribbon. Regarding his upgrade in rank, the applicant alleged that he was promoted to BM2/E-5 by his Chief prior to his discharge, but his DD-214 erroneously shows that he was a BM3/E-4 at the time of his discharge. The applicant stated that these corrections should be made because it is the right thing to do and because he wants his DD-214 to be correct for his own conscience.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on October 2, 1990. He advanced to BM3/E-4 in June 1992. A CG-3303 shows that he completed the MRN-E5 course required to be eligible to advance to BM2/E-5 in March 1993.

On August 26, 1994, the applicant submitted a memorandum wherein he requested an early discharge. The applicant explained that his enlistment was set to end on October 2, 1994, not counting an eight-month extension he had previously signed, but he had been offered a position

with the United States Marshals Office that was expected to begin within 2 to 3 months. The applicant further explained that due to an over-billeting of BM3s at his station, his early discharge would not cause a disruption at his unit.

On September 15, 1994, the applicant's Commanding Officer (CO) endorsed his request for an early discharge via a First Endorsement memorandum. The CO stated that the applicant was currently filling a BM3 billet that did not require him to be coxswain qualified.

On October 12, 1994, the applicant's Group Commander endorsed his request for an early discharge via a Second Endorsement memorandum.

On October 25, 1994, the Commandant approved the applicant's early discharge. All of the documentation and messages regarding the applicant's discharge refer to him as a BM3.

On December 8, 1994, the applicant signed his discharge paperwork acknowledging his rate as a "BM3/E-4." The applicant was then discharged and provided a DD-214 reflecting his rank at BM3/E-4. His DD-214 also shows that he had received the Humanitarian Service Medal, a Good Conduct Medal, and an Expert Pistol Shot Medal and that he had attended Basic Boarding Officer Course and Basic Motor Life Boat School.

At the time of his discharge, another CG-3303 in the applicant's record stated, "M16 Expert, Pistol Sharpshooter."

VIEWS OF THE COAST GUARD

On October 4, 2021, a Judge Advocate (JAG) for the Coast Guard submitted an advisory opinion in which he recommended that the Board grant partial relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

Regarding the applicant's claim that he was promoted to BM2/E-5 by his Chief prior to his discharge, the JAG explained that outside of the applicant's unsupported claim that he was promoted before his discharge, there is no evidence showing that he was promoted to BM2/E-5. The JAG stated that the record does show that the applicant completed his BM2 course, but there is nothing in the record to show that the applicant was authorized advancement subsequent to his passing the course. The JAG argued that all of the applicant's discharge paperwork, including documents signed by the applicant on the day of his discharge, reflect a rank of BM3/E-4. The JAG explained that the same is true for the applicant's claim regarding his coxswain certification. The JAG stated that the applicant again failed to provide any evidence to prove that he had attained coxswain certification prior to his discharge. Therefore, the JAG argued that the applicant failed to satisfy his burden of proof regarding these claims, and so his request for a change of rate/rank and an added coxswain certification should be denied.

Regarding the applicant's claim that his pistol and rifle qualifications are incorrect on his DD-214 and that his National Defense Service Medal and the Coast Guard Bicentennial Unit Commendation Ribbon are missing, the JAG stated that the applicant's record does support the applicant's claims of missing awards and his DD-214 should be corrected as requested.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 6, 2021, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. The Chair received the applicant's response on October 29, 2021.

The applicant explained that upon arriving at his previous unit he was given 6 months to be certified as a coxswain, which he claimed he accomplished under BMC D, who requested the applicant through his active-duty recruiter. The applicant stated that on March 5, 1993, he successfully completed his BM2 course and within two weeks of completion, he was given an oral interview with the CO of his station, BMC D, and the Executive Officer BM1 M. The applicant alleged that he passed this interview.

The applicant stated that his August 26, 1994, memorandum wherein he requested his early discharge was meant to end only his active-duty obligation, but he stood ready and willing to serve out his obligation in the Coast Guard Reserve. The applicant alleged that he was not advised until his early discharge request was approved that his entire obligation would be ended, and he would not be permitted to remain in the Coast Guard Reserve. According to the applicant, he was told to accept the approval of his discharge and reenlist in the Coast Guard Reserve after his discharge.

The applicant explained that after his discharge, he enlisted in the Coast Guard Reserve and was placed in his previous unit. The applicant alleged that after he reenlisted in the Coast Guard Reserve he was presented with a letter of promotion to BM2/E-5. Regarding his coxswain certification, the applicant asked how he could have graduated from Basic Motor Lifeboat School and not be a coxswain? The applicant asked the Board to review his Reserve paperwork and add Boarding Officer to his DD-214. The applicant requested that the Board do a little diligence instead of reviewing the obvious paperwork. He stated that he is a bit disappointed with the Coast Guard's response and considers it a slap in the face. The applicant stated that with all he has done for his country, the Coast Guard should do a little digging, be more proactive, and work on behalf of a veteran.

APPLICABLE LAW AND POLICY

Article 5.B.1.d. of the Coast Guard Medals and Awards Manual, COMDTINST M1650.25B, provides the following guidance on receiving the National Defense Service Medal:

11. National Defense Service Medal.

...

b. Eligibility Requirements.

(1) Honorable active service as a member of the Armed Forces for any period after 26 June 1950 and before 28 July 1954, after 31 December 1960 and before 15 August 1974, or on or after 2 August 1990 until a date to be determined by the Secretary of Defense.

Article 8.A.3. of COMDTINST M1650.25B provides the following guidance on expert pistol and rifleman medals:

8.A.3.a. Eligibility.

1. The Expert Rifleman Medal is awarded to Coast Guard personnel who qualify as expert with the M16, 5.56MM rifle over one of the prescribed courses of fire.
2. The Expert Pistol Shot Medal is awarded to Coast Guard personnel who qualify as expert with the M9 Personal Defense Weapon (PDW) over one of the prescribed courses of fire.

Article 3.B.6. states the following about the USCG Bicentennial Unit Commendation:

Coast Guard Bicentennial Unit Commendation. Awarded by the Commandant to all Coast Guard members, including selected Reservists, civilians, and Auxiliarists serving satisfactorily during any period from 4 June 1989 to 4 August 1990. The Bicentennial Unit Commendation may not be awarded to any individual whose entire service previous to 4 June 1989 is not honorable. Personnel of other Services who were assigned to and served with the Coast Guard during this period also are eligible for the award. (NOTE: The Operational Distinguishing Device is not authorized for this award.)

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction over this matter under 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.¹ The applicant received and signed the erroneous DD-214 on June 8, 1994. Therefore, the preponderance of the evidence shows that he knew of the alleged errors in 1994 and 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.² In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), 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"³ 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."⁴ Although the applicant in this case did delay filing the application and has not justified his delay, the Coast Guard has recommended that the Board grant partial relief

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

² 10 U.S.C. § 1552(b).

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

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

in this case. Therefore, the Board finds that it is in the interest of justice to excuse the untimeliness of the application.

4. The Board's review of the applicant's record shows that he received both his Expert Pistol Shot Medal and Expert Rifleman Medal. The former is already shown on his DD-214, but the latter is not. The record further shows that the applicant should have received the National Defense Service Medal. Accordingly, the Board finds that partial relief should be granted. The Coast Guard should correct the applicant's DD-214 to reflect his receipt of the Expert Rifleman Medal and the National Defense Service Medal. These corrections may be issued on a DD-215.

5. Although the Coast Guard recommended that the Board award the applicant a Coast Guard Bicentennial Unit Commendation Ribbon, the record shows that the period for that award was June 4, 1989, to August 4, 1990, and the applicant did not enlist in the Coast Guard until October 2, 1990. Accordingly, the preponderance of the evidence does not show that he is entitled to this ribbon.

6. The applicant alleged that prior to his discharge he was promoted to BM2/E-5 by BMC D. However, the applicant failed to provide evidence to support his claim and his record is presumptively correct. Furthermore, the applicant stated in his response to the advisory opinion that he was not presented with promotion paperwork until after his December 8, 1994, discharge and reenlistment into the Coast Guard Reserve. Because this alleged promotion took place during a different service period it was not required to be shown on his DD-214 for the applicant's October 2, 1990, through December 8, 1994, service period. Accordingly, the Board finds that the applicant's request to correct his record to reflect a rate of BM2 and a rank of E-5 at the time of his discharge in 1994 should be denied.

7. The applicant further alleged that he obtained his coxswain certification and boarding officer certification prior to his discharge. However, the applicant's record does not support these claims. While his DD-214 shows that he completed the Basic Boarding Officer Course and Basic Motor Life Boat School in 1993, completing those courses constitutes completing steps toward gaining the certifications; completing the courses is not sufficient to receive the certifications. In addition, the Commandant's Instruction for preparing DD-214s authorizes the inclusion of Decorations, Citations, Medals, Badges, and Campaign Ribbons, not qualifications or certifications. DD-214s may include only those military medals and awards listed in the Medals and Awards Manual, and that manual does not even include the words "coxswain" or "boarding officer." Accordingly, the Board finds that the applicant's request to correct his DD-214 to reflect a coxswain certification and boarding officer certification should be denied.

ORDER

The application of former BM3 [REDACTED] [REDACTED] USCG, for the correction of his military record is granted in part as follows:

The Coast Guard shall correct block 13 of his December 8, 1994, DD-214 to reflect his receipt of the Expert Rifleman Medal and the National Defense Service Medal. This correction may be made on a DD-215.

September 15, 2023

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