

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

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 2003-006

FINAL DECISION

██████████

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was docketed on October 28, 2002, upon receipt of the applicant's complete application for correction of his military record.

This final decision, dated August XX, 2003, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant asked the Board to correct his record to show that he received two bronze and two silver clusters for the American Campaign and the Asiatic-Pacific Campaign medals he earned during his World War II (WWII) service.

The applicant stated that he discovered the alleged error after his discharge on May 6, 1946 and that the statute of limitations should be waived because he is still owed the awards.

The applicant enlisted in the Coast Guard Reserve on February 14, 1945 and began a period of active duty on July 30, 1945, when he was assigned to a cutter. He served on the cutter until April 29, 1946. He was discharged from the Coast Guard on May 6, 1946. His discharge document shows that he earned the American Area Ribbon, Asiatic Pacific Area Ribbon and the WW II Victory ribbon.

Views of the Coast Guard

On February 26, 2003, the Board received an advisory opinion from the Chief Counsel of the Coast Guard recommending that the Board deny relief.

Attached to the advisory opinion, as Enclosure (1) was a memorandum from the Commander, Coast Guard Personnel Command (CGPC). He stated there are no bronze "clusters" authorized for the Americana Campaign and Asiatic-Pacific Campaign medals. He further stated that chapter 5.B.7. of the Coast Guard Medals and Awards Manual provides for the following: "bronze engagement stars may be authorized for wear on the American Campaign and Asiatic-Pacific Campaign medals for operations

or engagements involving actual combat. Silver stars are worn in lieu of five bronze stars."

CGPC stated that the Coast Guard Medals and Awards office reviewed the applicant's service record and found that, although he had been awarded the American Campaign and Asiatic-Pacific Campaign medals, there was nothing in the record authorizing him to wear bronze stars with these medals. GPC stated that there is no conclusive evidence from the applicant that he was awarded two bronze and two silver stars. Nor, according to CGPC, is there any evidence that the applicant performed any service (combat) onboard the cutter that would have met the criteria for these award elements.

CGPC also noted the untimeliness of the application.

Applicant's Response to the Views of the Coast Guard

On February 28, 2003, a copy of the advisory opinion was sent to the applicant for his review and comment. He did not submit a response.

FINDINGS AND CONCLUSIONS

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

1. The BCMR has jurisdiction over this matter pursuant to section 1552 of title 10, United States Code.
2. The application was not timely. To be timely, an application for correction of a military record must be submitted within three years after the applicant discovered or should have discovered the alleged error or injustice. See 33 CFR 52.22. This application was submitted approximately 53 years beyond the statute of limitations.
3. The Board may still consider the application on the merits, however, if it finds it is in the interest of justice to do so. The interest of justice is determined by taking into consideration the reasons for and the length of the delay and the likelihood of success on the merits of the claim. See, Dickson v. Secretary of Defense, 68 F. 3rd 1396 (D.D.C. 1995).
4. The applicant stated that he discovered the error or injustice in 1946, but offered no reason for not filing his application earlier, except to say that he is entitled to the awards. The Board does not find this a persuasive reason for waiving the statute of limitations in this case.
5. The Board further finds that it is not likely that the applicant would prevail on the merits of this claim, even if the Board were to waive the statute of limitations. His

military record does not contain any evidence that while on the cutter, he was engaged in combat with the enemy, a requirement for being awarded a bronze star. See section 5.B.7.c. of the Coast Guard Medals and Awards Manual. Nor has he presented any proof, other than his bare allegation, that he is entitled to these award elements for any other service.

6. Based on the length of the delay, the lack of persuasive reasons for not acting sooner to correct his record, and the probable lack of success on the merits of his claim, the Board finds it is not in the interest of justice to waive the three-year statute of limitations in this case.

7. Accordingly, the applicant's request for relief should be denied.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

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

