

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2006-056

XXXXXXXXXXXXXX
XXXXXXXXXXXXXX (XXXXX), EN3 (former)

FINAL DECISION

████████████████████

This proceeding was conducted 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 February 17, 2006, upon receipt of the completed application and military records.

This final decision, dated October 19, 2006, is 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 honorably discharged from the Coast Guard in 1960, asked the Board to correct his military record to show that he was awarded a Cold War Victory Medal, Overseas Medal, and the Coast Guard Medal. He alleged that he "recently found out about these medals" and would like to have them added to his military record.

SUMMARY OF THE APPLICANT'S RECORDS

On September 12, 1956, the applicant enlisted in the Coast Guard for a term of four years. After completing recruit training, he served in a variety of assignments, including 21 months of foreign and/or sea service aboard the Coast Guard Cutter ██████████. He was honorably discharged from the Coast Guard on August 12, 1960, and the applicant's DD-214 indicates that he received the Coast Guard Good Conduct Medal for the period ending March 31, 1960.

APPLICABLE LAW

The Coast Guard Medals and Awards Manual, COMDTINST M1650.25C, Article 2.A.5., provides that the Coast Guard Medal is “awarded to any persons who, while serving in any capacity with the Coast Guard, distinguish themselves by heroism not involving actual conflict with any enemy. To justify this decoration, individuals must have performed a voluntary act of heroism in the face of great danger to themselves and such as to stand out distinctly above normal expectations.”

The Coast Guard Medals and Awards Manual does not provide for an Overseas Service Medal or for a Cold War Victory Medal. Article 5.A.9. of the Medals and Awards Manual *does* provide for a Sea Service Ribbon, but it was not authorized by the Commandant until March 3, 1984. Encl. 1-21 to COMDTINST M1650.25C. There is currently no Cold War Victory Medal authorized for use by any of the armed forces, including the Coast Guard.¹

VIEWS OF THE COAST GUARD

On May 19, 2006, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief.

The JAG relied on a memorandum from the Coast Guard Personnel Command (CGPC) concerning the applicant’s request. CGPC stated that the applicant’s DD-214 accurately reflects his awards and it recommended that the applicant’s request be denied for untimeliness. Notwithstanding the timeliness issue, CGPC recommended that the request be otherwise denied because the applicant is not entitled to the Coast Guard Medal. CGPC argued that there is nothing in the applicant’s record “regarding any significant acts of heroism performed by the applicant that would have made him eligible for the Coast Guard Medal.”

CGPC also argued that the applicant’s request should be denied because there is simply no Overseas Service Ribbon or Cold War Victory Medal authorized by the Medals and Awards Manual. CGPC stated that although there has been repeated legislative action for the Cold War Victory Medal, there is currently no approved legislation for that medal.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

¹ Several bills were introduced in the current 109th Congress that would have provided for a Cold War Victory Medal, but none were enacted. In particular, section 552 of the House-passed version of H.R. 5122, the John Warner National Defense Authorization Act for fiscal year 2007, authorized this decoration, but the provision was not included in the final version of the legislation passed by both Houses and presented to the President on October 5, 2006. *See* H.Rep 109-172.

On May 23, 2006, the Chair forwarded a copy of the views of the Coast Guard to the applicant and invited him to respond. No response was received.

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 section 1552 of title 10 of the United States Code.

2. An application to the Board must be filed within three years of the day the applicant discovers the alleged error in his record. 10 U.S.C. § 1552. Although the applicant alleged that he only recently "found out" about the medals, he was discharged in 1960 and knew or should have noticed that his DD-214 did not contain the Coast Guard Medal or the Overseas Service Ribbon. Therefore, the Board finds that the applicant filed his application more than 43 years after the Board's statute of limitations expired. Thus, his application was untimely.

3. Pursuant to 10 U.S.C. § 1552, the Board may waive the three-year statute of limitations if it is in the interest of justice to do so. To determine whether it is in the interest of justice to waive the statute of limitations, the Board should conduct a cursory review of the merits of the case. *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

4. The applicant asked the Board to correct his record to show that he was awarded the Coast Guard Medal. The Coast Guard's Medals and Awards Manual provides that the Coast Guard Medal is awarded to persons who, while serving in any capacity with the Coast Guard, distinguish themselves by heroism not involving actual conflict with any enemy. While the Board notes that the applicant served honorably, there is nothing in his military record to indicate that he performed any acts of heroism that would have made him eligible for the Coast Guard Medal.

5. The applicant asked the Board to correct his record to show that he was awarded the Cold War Victory Medal. There is currently no legislation authorizing the issuance of the Cold War Victory Medal. Although the Board is cognizant of the fact that the applicant served in the Coast Guard during the Cold War, there is simply nothing in the Coast Guard Medals and Awards Manual authorizing the Cold War Victory Medal.

6. The applicant also requested that his record be corrected to show that he received an Overseas Service Ribbon. The JAG argued that the request should be denied because the Coast Guard does not have an Overseas Service Ribbon. While the

Board agrees that the Coast Guard has no such ribbon, it does, however, have a Sea Service Ribbon. The applicant would likely have been eligible for the Sea Service Ribbon by virtue of his service aboard the [REDACTED]; however, the Commandant did not authorize the Sea Service Ribbon for use until March 3, 1984 — 24 years after the applicant was discharged from the Coast Guard.

7. There is nothing in the applicant's record to justify awarding him the Coast Guard Medal, and although the Coast Guard has a Sea Service Ribbon, its use was not authorized until 1984. Finally, although the applicant served in the Coast Guard during the Cold War, there is no Cold War Victory Medal authorized by the Coast Guard. Accordingly, due to the probable lack of success on the merits of his claim, the Board finds that it is not in the interest of justice to waive the statute of limitations in this case and it should be denied because it is untimely.

ORDER

The application of former EN3 XXXXXXXXXXXX, xxxxxxxxxxxxxx, USCG, for correction of his military record is denied.

