

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2007-049

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XXXXXXXXXXXXXXXXXXXXXXXXXXXX

FINAL DECISION

This proceeding was conducted according to 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 December 19, 2006, upon receipt of the application and military records and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated August 30, 2007, 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 lieutenant in the Reserve, asked the Board to correct his record by including an Administrative Remarks form CG-3307 stating that he is entitled to wear the Coast Guard's boat force insignia. The applicant alleged that he meets all the requirements to wear the pin under COMDTINST M16114.32A but that when he requested authorization to wear the insignia, his request was denied although his command thought he was eligible and supported his request.

The applicant submitted copies of two requests for the insignia, which were apparently denied. The first request, dated February 12, 2005, shows that his commanding officer denied his request because he thought that Chapter 7.B.4. of COMDTINST M16114.32A required five years of active duty, which the applicant does not have. The applicant argued that the regulation only requires five years of "qualifying service as an active member of the unit's Ready for Operations program or a Readiness and Standardization Team" and not five years of active duty. He submitted copies of several emails showing that, in October 2005, the Office of Boat Forces at Coast Guard Headquarters advised his command that the five years could be reserve or active duty time. The applicant's second request for the insignia, dated October 24, 2005, does not bear his commanding officer's signature. However, emails submitted by the applicant indicate that it may have been denied because his command was unconvinced that his assignments met the pre-2002 criteria for qualifying under Chapter 7.B.4. of COMDTINST M16114.32A.

In support of his allegations, the applicant also submitted copies of his officer evaluation reports, which show that

- from June 27, 1997, through September 30, 1998, the applicant was assigned to Group [REDACTED] and served as the “Group Operations Duty Officer” as well as a “Tactical Intelligence Watch Officer”;
- from October 1, 1998, through July 31, 2000, the applicant was assigned to Group/Air Station [REDACTED] and served as the “Group/Station Operations Duty Officer”; and
- from August 1, 2000, through July 31, 2001, the applicant was assigned to Group/Air Station [REDACTED] and served as the “Station Operations Duty Officer.”

In addition, the applicant submitted a letter dated May 26, 1994, which shows that he had completed all tasks necessary to qualify as a Communications Watchstander and a Boat Crewmember and had received both certifications.

APPLICABLE REGULATIONS

Chapter 7 of COMDTINST M16114.32A bears the title “Boat Force Operations Insignia Criteria.” It states that the insignia identifies personnel working in boat force operations and uses two color schemes to show levels of professional development. The basic insignia is pewter toned. Members with a higher level of qualification and experience may receive a pewter-toned insignia with gold-toned compass in the design (hereinafter referred to as the “gold-toned insignia”).

Chapter 7.A. states that to wear the basic, pewter-toned insignia, an officer must have the following:

1. Five years of cumulative service with a satisfactory conduct record at one or more “boat force field units,” which are defined to include Aides to Navigation Teams, Centers of Excellence (NMLBS, BFC, SMTC), Security Response Teams, Standardization Teams, Stations, and Strike Teams, as well as bases, sections, sectors/groups, and marine safety offices if the member is assigned to a billet with direct and regular involvement in boat operations.
2. A certification letter showing that the officer has qualified as a boat crewmember by completing the appropriate tasks listed in Parts 2 through 6 of the Boat Operations and Training (BOAT) Manual, Volume II, COMDTINST M16114.33 (series).
3. The favorable recommendation of an Operational Commander.

Chapter 7.A.4. states that members who are currently serving at a boat force field unit and who have been serving at the unit for at least six months may wear the pewter-toned insignia temporarily if they have completed the appropriate tasks in the BOAT Manual and have command approval.

Chapters 7.B.1., 2., and 3. provide that to wear the gold-toned insignia, an officer must (a) meet the criteria for the basic, pewter insignia; (b) receive certification letters showing that the officer has qualified as a boarding team officer by completing the personal qualification standards (PQS) in COMDTINST M16247.3, and that he has qualified for boat force operations by completing the Boat Force Operations PQS in the BOAT Manual; and (c) has received a favorable recommendation from the Operational Commander.

Chapter 7.B.4. states that a member “who met all of the following criteria prior to 1 September 2002,” as determined by the member’s commanding officer, can also wear the gold-toned insignia:

1. Five years of cumulative service with a satisfactory conduct record at one or more “boat force field units,” which are defined to include Aides to Navigation Teams, Centers of Excellence (NMLBS, BFC, SMTC), Security Response Teams, Standardization Teams, Stations, and Strike Teams, as well as bases, sections, sectors/groups, and marine safety offices if the member is assigned to a billet with direct and regular involvement in boat operations.

2. For three of the five years of qualifying service, the member must be assigned to serve as a Qualified Sector/Group Operations Center Watchstander, an Operations Officer or Assistant Operations Officer, an Engineering Petty Officer, Engineering Officer, Executive Petty Officer, Executive Officer, Officer in Charge, or Commanding Officer of the boat force field unit.

3. For two of the five years of qualifying service, the member must be “an active member of a unit’s Ready for Operations Program or a Readiness and Standardization Team member. This includes legacy units such as District/Sector/Group staff or COEs in which members performed duties directly related to the Ready for Operations Program or the Readiness and Standardization Program.”

Chapters 7.A.5. and 7.B.5. state that commanding officers must review the member’s record to ensure that all the criteria have been met before authorizing the member to wear the insignias.

The glossary of COMDTINST M16114.32A defines a Ready for Operations (RFO) Team as a team of at least three “members designated by the Operational Commander ... [to] conduct annual assessment visits to ensure the goals of the Readiness and Standardization Program are achieved.” It defines a Standardization (STAN) Team as a “three- to five-member deployable evaluation team ... [that] conducts biennial assessment visits to ensure the goals of the Readiness and Standardization Assessment (outlined in this Manual) are achieved.”

ALCOAST 490/05, issued on October 4, 2005, states that Enhanced Maritime Safety and Security Teams (EMSST) and Maritime Safety and Security Teams (MSST) “meet the service eligibility requirements for the Boat Force Operations Insignia” in COMDTINST M16114.32A.

Chapter 6-4-1 of Coast Guard Regulations states that the Operations Officer is “the head of the Operations Department. In addition to those duties prescribed elsewhere in these regula-

tions for the head of a department, the Operations Officer shall be responsible for the collection, evaluation, and dissemination of operational and combat information required for the assigned missions and tasks”

VIEWS OF THE COAST GUARD

On June 1, 2007, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant partial relief in this case by correcting the applicant’s record to show that he had authorization to wear the pewter-toned insignia, but not the gold-toned insignia. He adopted the findings and analysis of the case provided in a memorandum by the Coast Guard Personnel Command (CGPC).

CGPC noted that in submitting his request for a Boat Force Operations Insignia, the applicant did not specify whether he was asking for authorization to wear the basic insignia or the gold-toned insignia. CGPC stated that it appears that the applicant’s commanding officer initially denied the request for a pewter-toned insignia only because he erroneously believed that the criteria included five years of active duty and that Reserve service was not qualifying service. Because this belief was erroneous, CGPC argued, the applicant’s record should be corrected to show that he is entitled to wear the pewter-toned insignia.

CGPC alleged that the applicant should not be awarded the gold-toned insignia because his “record does not support that he has met either the [current] basic qualifications for the [gold-toned] insignia or the alternate ‘grandfathered’ provisions for eligibility prior to September 1, 2002.” In support of these allegations, CGPC submitted a Career Summary for the applicant from its database, which shows that the applicant has been assigned to operational units on [REDACTED] [REDACTED] for much of his career and that he attended Boarding Team Member School in [REDACTED] and qualified as a “Boarding Officer (Marine Safety)” in 2005.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 4, 2007, the Chair sent the applicant a copy of the Coast Guard’s advisory opinion and invited him to respond within 30 days. On June 16, 2007, the applicant responded to the advisory opinion.

The applicant stated that his OERs from June 1997 through July 2001 show that he met the requirements for a gold-toned insignia because he served as an Operations Officer for more than three years. He alleged that in serving as an Operations Officer he was “an active member of the respective units’ Ready for Operations program.”

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. The application was timely because the applicant twice applied for and was denied authorization to wear the Boat Force Operations Insignia in 2005.

2. The Coast Guard stated that the applicant should be authorized to wear the pewter-toned Boat Force Operations Insignia because in 2005 his commanding officer reviewed his record and denied his request only because the applicant did not have five years of active duty, which the commanding officer mistakenly believed to be a criterion under the regulation. The Coast Guard stated that five years of Reserve service at boat force field units meets the criterion for a pewter-toned insignia under Chapter 7.A.1. The preponderance of the evidence indicates that the applicant qualified as a boat crewmember and communications watchstander in 1994 and that his commanding officer denied his request for a pewter-toned insignia only because he thought that the applicant had to have five years of active duty, rather than Reserve duty, at a boat force field unit to be eligible. As the regulation does not appear to require five years of active duty at such a unit and both CGPC and the Headquarters Office of Boat Forces have concluded that the commanding officer's interpretation of the regulation was wrong, the Board finds that the applicant should be authorized to wear the pewter-toned Boat Force Operations Insignia.

3. The applicant alleged that he has met the criteria in effect prior to September 1, 2002, for wearing the gold-toned insignia. Under Chapter 7.B.4. of COMDTINST M16114.32A, prior to September 1, 2002, an officer must not only have five years of cumulative service at a boat force field unit and be recommended by his commander, but he must have spent at least three of the five years assigned as a Qualified Sector or Group Operations Center Watchstander, an Operations Officer or Assistant Operations Officer, an Engineering Petty Officer, Engineering Officer, Executive Petty Officer, Executive Officer, Officer in Charge, or Commanding Officer; and at least two of the five years as "an active member of a unit's Ready for Operations Program or a Readiness and Standardization Team member." The applicant did not specify how his assignments met both of these very specific criteria, and it is not clear to the Board that his service as an Operations Duty Officer for the Air Station and the Group met the criteria. CGPC has stated that the applicant has not met the criteria for the gold-toned insignia, and his commanding officer apparently did not approve the applicant's request for the insignia in October 2005 even after the command learned through emails from the Office of Boat Forces that Reserve service at a boat force field unit was qualifying service for the insignia.

4. The Board also is not persuaded that the applicant has met the current criteria for authorization to wear the gold-toned insignia, as provided in Chapter 7.B.2. of COMDTINST M16114.32A. Although his records show that he attended Boarding Team Member School in 1995 and qualified as a "Boarding Officer (Marine Safety)" in 2005, his record contains no certification letter showing that he has qualified by completing the Boat Force Operations PQS in the BOAT Manual nor any indication of his operational commander's recommendation.

5. Accordingly, the Board finds that the applicant has proved by a preponderance of the evidence that he should be authorized to wear the pewter-toned Boat Force Operations Insignia, but he has not proved by a preponderance of the evidence that he should be authorized to wear the gold-toned Boat Force Operations Insignia.

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxx, USCGR, for correction of his military record is granted in part as follows:

The Coast Guard shall correct his record by adding a CG-3307 to show that he is authorized to wear the pewter-toned Boat Force Operations Insignia in accordance with Chapter 7.A. of COMDTINST M16114.32A.

