

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2007-162

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XXXXXXXXXXXXXXXXXXXXXXXXXXXX

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. The Chair docketed the case on July 27, 2007, upon receipt of the applicant's completed application, and assigned it to staff member J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated April 10, 2008, 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 is a former radioman second class who enlisted in the Coast Guard Reserve on July 31, 1943; served on active duty during World War II; and was honorably discharged on May 10, 1946. He asked the Board to correct his record to show that he is eligible to a Good Conduct Medal, a Combat Action Ribbon, and any others to which he may be entitled. He alleged that he should be entitled to wear the Combat Action Ribbon because of his service aboard the *USS Savage* when it was attacked during a convoy, which "earned [him] one battle star." The applicant made no allegations with respect to his entitlement to a Good Conduct Medal. He alleged that he discovered these errors on June 18, 2007.

SUMMARY OF THE RECORD

On July 31, 1943, the applicant enlisted in the Reserve. He was assigned to various shore units until September 7, 1944, when he was transferred to the *USS Savage*, where he served until May 2, 1946. The applicant was honorably discharged on May 10, 1946, upon completing 2 years, 9 months, and 10 days of service. His DD 214 shows that he is entitled to wear the American Theater of Operations Ribbon, the Asiatic Pacific Theater of Operations Ribbon, the European African Middle Eastern Campaign Ribbon, and the World War II Victory Ribbon.

The applicant's service record indicates that all but one of his conduct marks were 4.0. The only conduct mark lower than 4.0 was a mark of 3.9 he earned at mast for "sleeping in after

reveille” on February 6, 1946. The Coast Guard calculated his final average conduct mark as 3.9 and his final average proficiency mark as 3.3. There is no indication that either the applicant or the crew of the *USS Savage* was ever awarded a Combat Action Ribbon.

VIEWS OF THE COAST GUARD

On December 13, 2007, the Judge Advocate General submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC). CGPC recommended that the Board deny the applicant’s request. CGPC noted that the application is not timely and argued that it should be denied because the applicant “has failed to substantiate any justification for the delay in presenting this case.

Regarding the applicant’s request for a Good Conduct Medal, CGPC stated that Chapter 5.A.1. of the Medals and Awards Manual specifically requires a member to complete at least three years of active service to earn this medal. Since the applicant did not complete three years of active service, CGPC argued, he is not entitled to a Good Conduct Medal. Regarding the Combat Action Ribbon, CGPC noted that under Chapter 2.B.7. of the Medals and Awards Manual, the “principal eligibility criterion is that the individual must have participated in a ground or surface combat firefight or action during which the individual was under enemy fire, and performance while under fire must have been satisfactory. The Combat Action Ribbon is intended to be restrictive and awarded only in bona fide cases of combat and not as a campaign ribbon.” CGPC stated that, although the applicant served aboard the *USS Savage* from September 7, 1944, until shortly before his discharge, there is no record of the Combat Action Ribbon having been awarded to the applicant or to the crew of the *USS Savage* as a whole. CGPC further stated that a review of the applicant’s records indicates that his DD 214 duly notes all of the ribbons to which he is entitled. Therefore, his request should be denied.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On December 18, 2007, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to submit a response within thirty days. No response was received.

APPLICABLE REGULATIONS

Enclosure (11) to the Medal and Awards Manual (COMDTINST M1650.25C), states that during World War II, receipt of a Good Conduct Award required at least three years of continuous active service with no single conduct mark less than 4.0 (out of 4.0). Enclosure (11) also shows that the current criteria for a Good Conduct Medal for active duty members are that they must serve three continuous years on active duty with no conviction at mast (NJP), court-martial, or equivalent civil court. In addition, during the three years, the member must not receive an average mark lower than a 3 (out of 7) in any performance factor and must not receive a conduct characteristic mark lower than a 4 (out of 7).

Enclosure (1) of the Medal and Awards Manual states that the Combat Action Ribbon was first authorized on February 17, 1969. Chapter 2.B.7. states that the “principal eligibility

criterion is that the individual must have participated in a ground or surface combat firefight or action during which the individual was under enemy fire, and performance while under fire must have been satisfactory. The Combat Action Ribbon is intended to be restrictive and awarded only in bona fide cases of combat and not as a campaign ribbon.” Enclosure (2) of the Medal and Awards Manual lists all of the units (primarily ships) that have been authorized the Combat Action Ribbon and the dates of service/combat for which the ribbon was awarded. The earliest date indicated in Enclosure (2) is 1961. Chapter 2.B.17.f. of the Medal and Awards Manual issued in 1982 (COMDTINST M1650.25) states that “[e]ffective 17 November 1976, the retroactive provisions of the Combat Action Ribbon were eliminated and the time limitations imposed by Chapter 1.A.6.c. are applicable.” Chapter 1.A.6.c. states that an award must be recommended within three years of the date of the service.

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 should be filed within three years of when the applicant discovers the alleged error in his record. 10 U.S.C. § 1552(b). The record indicates that the applicant knew or should have known whether or not he had been awarded a Good Conduct Medal or a Combat Action Ribbon upon his discharge in 1946. Therefore, the Board finds that his application was untimely.
3. Pursuant to 10 U.S.C. § 1552(b), the Board may excuse the untimeliness of an application if it is in the interest of justice to do so. In *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992), the court stated that to determine whether the interest of justice supports a waiver of the statute of limitations, the Board “should analyze both the reasons for the delay and the potential merits of the claim based on a cursory review.” The court further instructed 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.” *Id.* at 164, 165. *See also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).
4. The applicant provided no justification for his lengthy delay in applying to this Board. Moreover, the Board's review of his record indicates that his DD 214 already shows all of the medals and ribbons to which he is entitled. With less than three full years of continuous active service, his record does not meet the criteria for a Good Conduct Medal under either 1946 or current standards. In addition, the Combat Action Ribbon was not authorized until 1969, and there is no evidence in the record that it was ever awarded retroactively to the crew of the *USS Savage* in World War II.
5. Accordingly, the Board will not waive the statute of limitations, and the application should be denied for untimeliness and lack of merit.

ORDER

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

