

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2008-007

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

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 October 12, 2007, upon receipt of the applicant's completed application, 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 June 24, 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, who was discharged from the Coast Guard in 1963, asked the Board to correct his record to show that he is entitled to wear the Arctic Service Medal. He alleged that in 1960, he was serving aboard the *USCGC Storis* when the cutter sailed north of the Arctic Circle for more than twenty-one days. He stated that from June 15, 1960, to July 14, 1960, the crew of the cutter performed DEW Line operations and surveyed the medical and dental needs of native Alaskans from Point Barrow through the Bering Sea and down the chain of Aleutian Islands. He noted that he received a recognition patch for performing a Bering Sea patrol. He alleged that he is eligible for the patch because he served north of the Arctic Circle for more than twenty-one days.

The applicant alleged that he discovered the error on September 13, 2007, when he learned about the Arctic Service Medal while attending the 50th anniversary celebration of the North American northwest passage of the *USCGC Storis*, *Bramble*, and *Spar* in 1958. He stated that at the celebration, a Vice Admiral presented the crewmembers who served during the northwest passage with the Arctic Service Medal. In support of his allegations, the applicant submitted copies of the following records:

- The applicant's DD 214 shows that he performed 11 months and 18 days of foreign and/or sea service during his active duty enlistment from August 18, 1959, to August 16, 1963. It also indicates that he received a Good Conduct Medal while in the Service.

- A form CG-3307 (“Page 7”) and a pay adjustment record indicate that on December 22, 1959, the applicant was transferred to the *Storis*, whose homeport was Kodiak, Alaska.
- A certificate shows that on June 15, 1960, while serving aboard the *USCGC Storis*, the applicant crossed the Arctic Circle.
- A Page 7 notes that on December 9, 1960, the applicant was transferred from the *Storis* to a shore unit in [REDACTED] after having served 11 months and 9 days aboard the cutter and outside the continental United States.
- The applicant’s Honorable Discharge certificate from the Coast Guard Reserve is dated August 17, 1965.

VIEWS OF THE COAST GUARD

On March 4, 2008, 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 was untimely. Regarding the merits of the applicant’s request, CGPC stated that under Article 5.A.5.a.(1) of the Medals and Awards Manual, to receive the Arctic Service Medal, a member must “serve for a minimum period of 21 non-consecutive days under competent orders in waters north of 66°33’N (during summer operations) or north of latitude 60° North in the Bering Sea, Davis Strait, or Denmark Strait.” CGPC further noted that in Enclosure (14) to the Medals and Awards Manual, the last period listed for which the crew of the *Storis* was eligible for the Arctic Service Medal is July 13 through August 8, 1959.

CGPC stated that the applicant’s record does not substantiate his eligibility for the Arctic Service Medal. Although the certificate indicates that the *Storis* crossed the Arctic Circle while he was aboard, it does not show that the *Storis* remained north of the Arctic Circle for more than 21 days while the applicant was aboard from December 22, 1959, to December 9, 1960. CGPC noted that the Medals and Awards Manual does not indicate that the crew of the *Storis* met the requirements for the medal any time in 1960.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 6, 2008, 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

The Coast Guard Arctic Service Medal was authorized on May 20, 1976, and made retro-active to January 1, 1946. Under Article 5.A.5.a.(1) of the Medals and Awards Manual, the Arctic Service Medal may be awarded to “[a]ny member of the Coast Guard who, during summer

operations (1 May to 31 October), serves in any Coast Guard mission north of the Arctic Circle (66°33'N); or any member of the Coast Guard who, during winter operations (1 November to 30 April), serves or has served aboard a Coast Guard vessel operating in polar waters north of latitude 60 degrees North in the Bering Sea, Davis Strait, or Denmark Strait. Minimum time requirement is 21 nonconsecutive days under competent orders.”

Enclosure (14) to the Medals and Awards Manual lists the cutters and periods for which the crews of those cutters were eligible for the Arctic Service Medal. The last period listed for the *USCGC Storis* is “13 Jul 59 - 8 Aug 59.”

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. Under 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22, an application to the Board should be filed within three years of when the applicant discovered or reasonably should have discovered the alleged error in his record. The Arctic Service Medal was authorized on May 20, 1976, and the applicant could and should have submitted his application within three years of that date. Therefore, 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 stated that he was unaware that the Arctic Service Medal had been authorized until 2007. However, nothing prevented the applicant from learning about the medal when it was authorized in 1976.
5. The Board's review indicates that the applicant's claim has little or no potential to succeed on the merits. He alleged that he is eligible for the Arctic Service Medal because he was a crewmember aboard the *Storis* when it crossed the Arctic Circle on June 15, 1960. He stated that from June 15 to July 14, 1960, the crew performed DEW Line operations and surveyed the medical and dental needs of native Alaskans from Point Barrow south through the Bering Sea and down the chain of Aleutian Islands. Under Article 5.A.5.a.(1) of the Medals and Awards Manual, to receive the Arctic Service Medal for service from May 1 to October 31 of any year, a member must have served at least 21 days north of the Arctic Circle. Point Barrow is north of the Arctic Circle on the north coast of Alaska, but the Bering Sea and all of the Aleutian Islands are south of the Arctic Circle. Assuming *arguendo* that the *Storis* spent the month from June 15

to July 14 as the applicant described—i.e., in underway operations from Point Barrow south through the Bering Sea and along the Aleutian chain—it is unlikely that he spent 21 days north of the Arctic Circle because only a fraction of the journey he describes is north of the Arctic Circle. Moreover, the applicant was assigned to the *Storis* from December 22, 1959, to December 9, 1960, and Enclosure (14) to the Medals and Awards Manual, which lists the periods for which the crew of the *Storis* is eligible for the Arctic Service Medal, does not list any period in 1960.

6. Accordingly, the Board will not waive the statute of limitations, and the application should be denied for untimeliness and apparent lack of merit.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of former xxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is denied.

