

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2011-012**

**XXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXX**

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**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 after receiving the applicant's completed application on October 21, 2010, 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 June 23, 2011, 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 honorably discharged from the Coast Guard in 1971, asked the Board to correct his discharge form DD 214 to show that he is entitled to wear the "Sea Service ribbon, Arctic ribbon, and one other. Please review records for accuracy." He alleged that he discovered the errors on January 1, 2010, when he looked at his DD 214, which "had been put away for years."

**SUMMARY OF THE RECORD**

On September 25, 1967, the applicant enlisted in the Coast Guard for four years. On October 21, 1968, after completing boot camp and Radioman "A" School, the applicant reported for duty at a LORAN station in Adak, Alaska, an isolated unit.<sup>1</sup> On March 10, 1969, he was transferred to the CGC IRONWOOD, a buoy tender based in Homer, Alaska.<sup>2</sup> An Administrative Remarks entry made by the executive officer of the IRONWOOD on February 13, 1970, noted that the applicant completed 11 months and 4 days of sea duty before he was transferred from the cutter. On February 28, 1970, the applicant reported for duty at Air Station [REDACTED], where he served until he was released from active duty into the Reserve on September 24, 1971.

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<sup>1</sup> Located near the western end of the Aleutian Islands, Adak is the southernmost city in Alaska, at 51°53'0" North.

<sup>2</sup> Homer, Alaska, at 59°38'35" North, is south of Anchorage on the Kenai Peninsula.

Administrative entries in the applicant's record show that he was issued the National Defense Service Medal and the Good Conduct Medal.

The applicant's DD 214 dated September 24, 1971, which he signed, shows entitlement to only the National Defense Service Medal and the Good Conduct Medal in block 24, where medals and awards are listed.

### **VIEWS OF THE COAST GUARD**

On January 5, 2011, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which recommended that the Board deny the applicant's request. The JAG stated that the application is untimely and that the applicant failed to explain why he waited so long to seek correction of the alleged error.

In recommending denial, the JAG adopted the findings and analysis provided in a memorandum on the case prepared by the Personnel Service Center (PSC). The PSC stated that relief should be denied because a careful review of the applicant's record has shown that no awards, medals, or ribbons were erroneously omitted from his DD 214. In this regard, the PSC noted that the criteria for a Sea Service ribbon include 12 months of sea duty, which the applicant did not have, and that the list of units authorized to wear the Arctic Service medal does not include any unit to which the applicant was assigned for the period the medal was authorized.

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On January 18, 2011, 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**

Chapter 5.A.21. of the Medals and Awards Manual states that the Sea Service Ribbon was authorized on March 3, 1984, and is "[a]warded to active and inactive duty members of the Coast Guard and Coast Guard Reserve or non-Coast Guard personnel who, under temporary or permanent assignment, satisfactorily complete a minimum of 12 months cumulative sea duty (first award)." The manual contains no provisions for a retroactive award of this ribbon.

Chapter 5.A.5.a. of the Medals and Awards Manual states that the Arctic Service Medal, which was authorized on May 20, 1976, may be awarded to the following members for service since January 1, 1946:

- (1) Any 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, specifically in the Bering Sea, Davis Strait, or Denmark Strait. Minimum time requirement is 21 consecutive days under competent orders. Only one award per deployment is authorized.
- (2) Any member of the Coast Guard who participates in or has participated in flights ...

(3) Any member of the Coast Guard who serves or has served at least 21 consecutive days under competent orders at:

- (a) CG Loran Station, Cape Atholl, Greenland [76°18'56"N];
- (b) CG Loran Station, Cape Christian, Baffin Island, Canada [70°32'N];
- (c) CG Loran Station, Port Clarence, Alaska [65°14'40"N];
- (d) CG Loran Station, Barrow, Alaska [71°17'44"N];
- (e) CG Loran Station, Bo, Norway [68°38'06"N]; or
- (f) CG Loran Station, Jan Mayen Island, Norway [70°54'51"N].

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 CGC IRONWOOD is not on the list.

### 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), an application to the Board should be filed within three years of when the applicant discovers the alleged error in his record. Because the Arctic Service Medal and Sea Service Ribbon were both authorized after the applicant was discharged from active duty, he could not have known about the alleged errors upon his discharge. However, he could have discovered the alleged errors at any time after the medal and ribbon were authorized in 1976 and 1984, respectively. The applicant claimed that he discovered the alleged errors on January 1, 2010, when he apparently looked at his DD 214 for the first time in many years. Presumably, after looking at his DD 214, he wondered if he might be entitled to additional medals and learned of the existence of the Sea Service Ribbon and the Arctic Service Medal.
3. The Board's rules at 33 C.F.R. § 52.22 state that an application "must be filed within three years after the applicant discovered or reasonably should have discovered the alleged error or injustice." Courts have held that the plain language of § 1552(b) requires the Board to use the actual date of discovery, rather than the date at which a hypothetical "reasonable person" would have discovered the alleged error or injustice,<sup>3</sup> but also that "this does not mean that the actual date of discovery is whenever a plaintiff says it is."<sup>4</sup> In *McFarlane v. Secretary of the Air Force*, 867 F. Supp 405, 412 n.12 (E.D. Va. 1994), the court noted that "[a]lthough the relevant inquiry is what Ms. McFarlane knew and when she knew it, the Board may have to consider what a reasonable person would have known in order to establish what Ms. McFarlane herself knew. .... [I]f direct evidence of Ms. McFarlane's knowledge is inconclusive, then the best evidence of what and when [she] knew may well be circumstantial, that is, what reasonable people in her situation would have known. See, e.g., *United States v. Jones*, 797 F.2d 184, 187 (4<sup>th</sup> Cir. 1986) (government may rely on circumstantial evidence to prove knowledge)." In this

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<sup>3</sup> *McFarlane v. Secretary of the Air Force*, 867 F. Supp 405, 411-12 (E.D. Va. 1994).

<sup>4</sup> *Wielkoszewski v. Harvey*, 2005 WL 3206855, at \*5 (D.D.C.).

case, the Board knows of no ubiquitous publicity that would have alerted a reasonable veteran of the Coast Guard to his potential entitlement to the Sea Service Ribbon or the Arctic Service Medal. Therefore, although the applicant, with due diligence, could have discovered his potential entitlement to these awards many years ago, the Board finds that the date of his discovery was when he pulled out his DD 214 and learned about the awards in 2010. Therefore, his application is timely.

4. Although the application is timely, the Board finds that it fails on the merits because the applicant did not qualify for either a Sea Service Ribbon or an Arctic Service Medal under the eligibility criteria in the Medals and Awards Manual. With regard to the Sea Service Ribbon, the applicant is ineligible for two reasons: First, the ribbon was first authorized in 1984, and Chapter 5.A.21. of the Medals and Awards Manual, which governs its issuance, does not provide for retroactive issuance to veterans; second, the eligibility criteria in Chapter 5.A.21. require a full year of sea duty, but the applicant performed just 11 months and 4 days of sea duty. In contrast, the Arctic Service Medal was authorized retroactively back to 1946 for veterans with qualifying service. However, the applicant's records show that he never performed service that qualified him for the medal under the eligibility criteria in Chapter 5.A.5. of the Medals and Awards Manual even though he was assigned to both a shore unit and a cutter based in Alaska. His shore unit, LORAN Station Adak, at latitude 51°53' North, was far south of the Arctic Circle at latitude 66°33' North and is not listed in Chapter 5.A.5.a.(3) as one of the LORAN stations whose personnel may qualify for the medal. His cutter, CGC IRONWOOD, was a buoy tender, and although it was based at Homer, Alaska, latitude 59°38'35" North, it is not listed in Enclosure (14) to the Medals and Awards Manual as one of the cutters whose crew ever served 21 consecutive days (a) north of the Arctic Circle during summer months or (b) north of latitude 60° North in the Bering Sea during winter months.

5. The Board notes that the applicant requested another, unspecified award. However, there is no evidence that he is entitled to any medal, ribbon, or award other than those already listed on his DD 214.

6. Accordingly, the applicant's request for correction should be denied.

**[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]**

