

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2011-016

**XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX**

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 November 1, 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 1966, asked the Board to correct his discharge form DD 214 to show that he received a medal for participating in the Cuban Missile Crisis¹ and to have the Coast Guard issue a DD 215 showing all of the medals and citations he received. The applicant alleged that he was "on a [REDACTED] running patrols around Cuba during the Cuban Missile Crisis to help protect other boats in the area. We were stationed out of Miami, FL." He alleged that he discovered the error on August 10, 2010, when he applied to join the Veterans of Foreign Wars and was told he should have the medal.

SUMMARY OF THE RECORD

On August 15, 1962, the applicant enlisted in the Coast Guard for four years. After completing basic training on November 14, 1962, he was assigned to the administrative office of Group [REDACTED] from November 26, 1962, until April 2, 1963, when he received temporary orders assigning him to the crew of a patrol boat, CG-[REDACTED] which was homeported at [REDACTED]. However, the patrol boat and its crew were temporarily reassigned to

¹ The Cuban Missile Crisis occurred in October 1962, when in response to the construction of missile bases on Cuba by the Soviet Union, the United States created a blockade to prevent the delivery of arms to Cuba. The crisis ended on October 28, 1962, when the Soviet Union agreed to dismantle and remove its missiles from Cuba and the United States agreed never to invade Cuba and to remove certain missiles from Europe and Turkey. The Soviets dismantled the missile bases and removed the missiles in November and December 1962.

[REDACTED], and the applicant remained with the crew in [REDACTED]. On July 17, 1963, the applicant reported for duty at Group [REDACTED]. He served at various units in [REDACTED] until he was honorably discharged on August 12, 1966. The only award listed on his DD 214, which he signed upon his discharge, is the Good Conduct Medal.

VIEWS OF THE COAST GUARD

On January 13, 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. In recommending denial, the JAG adopted the findings and analysis provided in a memorandum on the case prepared by the Personnel Service Center (PSC), which stated that the Board should deny relief because there was no "citation, award, ribbon, medal, or any other accoutrement or designation" for members involved in the Cuban Missile Crisis. The PSC also stated that a thorough review of the applicant's entire service record had shown that the only award he is entitled to is a Good Conduct Medal, which is already shown on his DD 214.

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.B.11. of the old Medals and Awards Manual, COMDTINST M1650.25B, issued in 1995, states that the primary criterion for a National Defense Service Medal, which was authorized by Executive Order 11265 on January 11, 1966, is "[h]onorable active service as a member of the Armed Forces for any period after 26 June 1950 and before 28 July 1954, after 31 December 1960 and before 15 August 1974, or on or after 2 August 1990 until a date to be determined by the Secretary of Defense." The exceptions that follow this criterion are inapplicable in this case. Chapter 5.A.5.a.(1) of the current Medals and Awards Manual, COMDTINST M1650.25D, includes similar language and adds more recent eligibility periods.

Under Chapter 5.B.4. of the old Medals and Awards Manual, Coast Guard members could receive a Navy Expeditionary Medal, which was authorized on May 13, 1935, if between January 3, 1961, and October 23, 1962, they "actually landed on foreign territory and engaged in operations against armed opposition, or operated under circumstances which after full consideration shall be deemed to merit special recognition and for which service no campaign medal has been awarded." For the purposes of this award, the "Cuban operation area" was defined as "that water area between 12 and 28 degrees north latitude and between 66 and 84 degrees west longitude," and so includes Miami, Florida, which is located at about 25° N, 80° W. The units and vessels whose crews were eligible for this medal are listed in Enclosure (9) to the manual. The applicant's vessel, [REDACTED], later named the [REDACTED], is not on the list. Nor is it on the list for this medal in Enclosure (12) to the current Medals and Awards Manual.

Under Chapter 5.B.15. of the old Medals and Awards Manual, members could receive an Armed Forces Expeditionary Medal, which was authorized by Executive Order 10977 on December 4, 1961, if between October 24, 1962, and June 1, 1963, they served 30 consecutive days in the Cuba operations area; served 30 consecutive or 60 non-consecutive days in direct support of the operation and entered the operations area; or engaged in actual combat against an armed opponent during the operation. The vessels and the periods for which those vessels' crews are eligible for the medal are listed in Enclosure (12) to the manual. The applicant's vessel, [REDACTED], is not on the list. Nor is it on the list for this medal in Enclosure (15) to the current Medals and Awards Manual.

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.² The applicant has asked for a medal for his service during the Cuban Missile Crisis. All of the medals that a Coast Guard member could receive for serving during the Cuban Missile Crisis were authorized before the applicant's discharge in 1966. The applicant alleged that he did not know about the possibility of any such medals until August 10, 2010, but the Board finds this unlikely.³ Although the applicant may have forgotten in the long interim that some Coast Guard members received medals for service during the Cuban Missile Crisis, the Board finds that he knew of the possibility of receiving such medals prior to his discharge.⁴ In addition, the Board notes that the applicant signed his DD 214 showing entitlement to only the Good Conduct Medal in 1966. Therefore, his application is untimely.
3. Under 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."⁵

² 10 U.S.C. § 1552(b).

³ *Wielkoszewski v. Harvey*, 2005 WL 3206855, at *5 (D.D.C.) (noting that for the purposes of 10 U.S.C. § 1552(b), a date of discovery is not necessarily whatever date the applicant says it is).

⁴ *See McFarlane v. Secretary of the Air Force*, 867 F. Supp 405, 412 n.12 (E.D. Va. 1994) ("Although 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.").

⁵ *Allen v. Card*, 799 F. Supp. 158, 164-65 (D.D.C. 1992); *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

4. Although the applicant did not provide a compelling reason his long delay in seeking another medal for his service, the Board's cursory review of the merits of the case shows that he is entitled to at least one more medal. Therefore, the Board will waive the statute of limitations and consider the case on its merits.

5. The applicant asked for an additional medal reflecting his service during the Cuban Missile Crisis. His DD 214 and other military records show entitlement only to the Good Conduct Medal, and these records are presumptively correct.⁶ However, the National Defense Service Medal is awarded to all members who served honorably in the Armed Forces "for any period (inclusive) ... from 1 January 1961 to 14 August 1974"⁷ The applicant served honorably for four years during this period. Therefore, although no notation of the medal appears in his record, the Board finds that he is entitled to it under the regulation, and his DD 214 should be corrected to reflect that entitlement.

6. Some Coast Guard members were awarded either a Navy Expeditionary Medal or an Armed Forces Expeditionary Medal for their service in the Cuban operations area during and after the Cuban Missile Crisis.⁸ The applicant was still in boot camp during the crisis in October 1962 and so is clearly ineligible for a Navy Expeditionary Medal because that medal was only awarded to members who served in the Cuban operation area on or before October 23, 1962.⁹ However, the criteria for an Armed Forces Expeditionary Medal include serving 30 consecutive days in the Cuba operation area or 30 consecutive or 60 non-consecutive days in direct support of the operation, as long as the member enters the operation area, between October 24, 1962, and June 1, 1963.¹⁰ If the applicant met these criteria, he would be entitled to the Armed Forces Expeditionary Medal.

7. The applicant's military records show that he served aboard a patrol boat, WPB [REDACTED], assigned to the [REDACTED] District from April 7 to July 1, 1963, which period overlaps with the eligibility period for the Armed Forces Expeditionary Medal, which ended on June 1, 1963.¹¹ Thus, the applicant served aboard the WPB [REDACTED] in the [REDACTED] District for 56 days—from April 7 to June 1, 1963—during the eligibility period for the medal. Because the patrol boat was based in Miami, Florida, which was within the Cuba operation area between 12° and 28° North and 66° and 84° West, the crew presumably spent many of those 56 days in the Cuba operation area. However, there is no evidence in the record that during these 56 days, the crew of the WPB [REDACTED] served 30 *consecutive* days in the Cuba operation area or in support of the operation, and the patrol boat is not on the list of vessels whose crews were found to be entitled to the medal.¹² Therefore, the preponderance of the evidence shows that the applicant is not entitled to either a Navy Expeditionary Medal or an Armed Forces Expeditionary Medal.

8. Accordingly, the only relief that should be granted is to correct the applicant's DD 214 to show that he is entitled to wear the National Defense Service Medal.

⁶ 33 C.F.R. § 52.24(b).

⁷ Medals and Awards Manual, COMDTINST M1650.25D (May 2008), Chapter 5.A.5.a.(1).

⁸ *Id.* in Enclosures (12) and (15).

⁹ Medals and Awards Manual, COMDTINST M1650.25B (March 1995), Chapter 5.B.4.

¹⁰ *Id.* at Chapter 5.B.15.

¹¹ *Id.*

¹² *Id.* in Enclosure (12); Medals and Awards Manual, COMDTINST M1650.25D (May 2008), Enclosure (15).

ORDER

The application of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is granted as follows:

The Coast Guard shall correct his DD 214 by issuing a DD 215 to show that he is entitled to wear the National Defense Service Medal.

