

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2011-039

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 December 7, 2010, upon receipt of the applicant's completed application, and assigned it to staff members D. Hale and J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated July 28, 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 asked the Board to correct his record to show that he received the Armed Forces Expeditionary Medal (AFEM) for his service in Haiti. He stated that he discovered the alleged error in his record on November 2, 2010.

The applicant stated that in 1998 and July 2000 he was a Coast Guard [REDACTED] assigned to Operations Bahamas, Turks and Caicos (OPBAT) and flew injured soldiers from Haiti to the Naval Hospital in Guantanamo Bay, Cuba. The applicant stated that he received hostile fire/imminent danger pay for the missions. In support of his application, he submitted a copy of a page from his July 2000 flight logbook, which indicates that he flew a mission to Haiti, and an Eligibility Report from the Department of Veterans Affairs which shows that he received hostile fire/imminent danger pay in 1998 and 2000. He also submitted a letter from the [REDACTED] Department of Assessment,¹ which states that the applicant is not eligible for a veteran's tax exemption because he did not meet the qualifying guidelines of the

¹ [REDACTED], offers qualified veterans a tax credit towards the taxes on their dwelling or motor vehicle. The veteran must meet specific qualifying dates [REDACTED]
[REDACTED]

state statute. The letter further states that to qualify for the exemption, the veteran must have served on active duty in the following countries and during specific periods of time:

Lebanon	08-20-82 to 12-31-83
Granada	10-23-83 to 11-21-83
Haitian Conflict	08-02-90 to 05-01-94
Somalian Conflict	08-02-90 to 05-01-94
Bosnian Conflict	08-02-90 to 05-01-94

The letter further states that a member seeking the tax exemption must have a "campaign ribbon or expeditionary medal" listed on their DD Form 214. Attached to the letter are two pages, apparently from Chapter 06-002, Section 1, Chapter 44-3 of the General Laws of [REDACTED], enacted January 24, 2006, and entitled "Property Subject to Taxation." One of these two pages shows the following:

<i>From</i>	<i>To</i>	<i>Serve in the Following Location</i>	<i>Name of Conflict</i>
4/1/1995	12/31/2000	Haiti	UNMHI, US for Haiti, USSPTG-Haiti

SUMMARY OF THE APPLICANT'S RECORD

The applicant enlisted in the Coast Guard on [REDACTED], and retired from active duty on [REDACTED]. His record contains an Officer Evaluation Report (OER) which indicates that sometime between June 6, 2000, and July 9, 2001, while assigned to [REDACTED] [REDACTED] he was responsible for the MEDVAC of a U.S. soldier from a remote region of Haiti. There is nothing in the applicant's record to indicate that he participated in any operation in Haiti for which the AFEM was awarded.

VIEWS OF THE COAST GUARD

On January 10, 2011, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny the applicant's request based on the findings and analysis of the case provided in a memorandum prepared by the Coast Guard Personnel Center (PSC).

The PSC noted that the application is untimely. Regarding the merits of the case, PSC stated that the applicant was never involved in the two operations supporting Haiti which would qualify him for the AFEM. PSC further stated that the AFEM for Haiti operations was only authorized for members who participated in Operation Uphold Democracy, from September 11, 1994, to March 31, 1995, and Operation Secure Tomorrow, from February 29, 2004, to June 15, 2004. PSC noted that the applicant did not provide any proof of having earned the AFEM or having been involved in either one of these operations.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 14, 2011, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. No response was received.

APPLICABLE LAWS

Title 32 CFR § 578 states that the Armed Forces Expeditionary Medal was established by Executive Order 10977, dated December 4, 1961, and Executive Order 11231, dated July 8, 1965. It is authorized for U.S. military operations; U.S. operations in direct support of the United Nations; and U.S. operations of assistance for friendly foreign nations. Eligible personnel must be a bona fide member of a unit and engaged in the operation, including participation as a regularly assigned crewmember of an aircraft flying into, out of, within, or over the area in support of the military operation.

Commandant Instruction M1650.25C, the Coast Guard's Medals and Awards Manual, issued on October 25, 2002, contains the rules governing the eligibility of Coast Guard members for various awards and medals. Article 5.B.2.a. of the manual provides the eligibility requirements for the AFEM, as follows:

The AFEM may be awarded to personnel of the Armed Forces of the United States who:

- (1) Participate, or have participated, as members of United States military units in a United States military operation in which, in the opinion of the Joint Chiefs of Staff, personnel of any military department participate in significant numbers.
- (2) Encounter, incident to such participation, foreign armed opposition, or are otherwise placed, or have been placed, in such position that, in the opinion of the Joint Chiefs of Staff, hostile action by foreign armed forces was imminent even though it did not materialize.

Enclosure (15) to the manual lists the vessels, flight crews, and shore units whose personnel are entitled to the AFEM because of their involvement in the Uphold Democracy Operation from September 11 1994, to March 31, 1995. The list of participating units whose crews are entitled to the AFEM for that period includes CG Air Station Clearwater.

The Medals and Awards Manual was revised on May 5, 2008, with the release of Commandant Instruction M1650.25D. Enclosure (15) lists the vessels, flight crews, and shore units whose personnel are entitled to the AFEM because of their involvement in Operation Secure Tomorrow from February 29, 2004, to June 15, 2004. CG Air Station Clearwater is not listed as a unit participating in this operation.

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 must be filed within three years after the applicant discovers, or should have discovered, the alleged error or injustice. The applicant requested an AFEM for his participation in operations in Haiti and alleged that he discovered his eligibility for the AFEM on November 2, 2010. Enclosure (15) to the Medals and Awards Manual shows that the AFEM has been authorized for Haitian operations for only two periods while the applicant served on active duty: September 11, 1994, to March 31, 1995; and February 29, 2004, to June 15, 2004. The AFEM for the earlier period was authorized long ago and well before the applicant's retirement. Therefore, his request with

respect to the first period is untimely. However, the AFEM authorization for the second period did not appear in the Medals and Awards Manual until 2008 and, because the applicant retired in 2006, he may well not have learned about that authorization until 2010. Therefore, the Board finds that the applicant's request for an AFEM is timely at least with respect to the latter of the two periods. In the interest of administrative efficiency, the Board will review the applicant's eligibility for the AFEM authorized for both periods on the merits.

3. The applicant asked the Board to correct his record to show that he is eligible to receive the AFEM for his actions in Haiti in 1998 and 2000. He submitted a flight log from July 2000 and his record also contains an OER from 2000/2001 which shows that he was responsible for the MEDVAC of a U.S. soldier from a remote region of Haiti while assigned to [REDACTED] [REDACTED] [REDACTED]. He did not submit anything showing participation in Haitian operations in 1994/1995 or in 2004.

4. Although records show that the applicant was stationed at [REDACTED] [REDACTED] [REDACTED] in 2000 and 2001, and flew in and out of Haiti during that time, the AFEM was authorized only for operations in Haiti from September 11, 1994, to March 31, 1995, and February 29, 2004, to June 15, 2004. Commandant Instruction M1650.25C and M1650.25D. Accordingly, the Board finds that the applicant does not meet the criteria for an AFEM because he did not participate in either of the two Haiti operations for which the AFEM was authorized. The record contains no evidence to support his claim that he met the criteria for the medals, which are listed in Article 5.B.2.A. of the manual, and the Coast Guard's records are presumptively correct under 33 C.F.R. § 52.24(b). *See Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties "correctly, lawfully, and in good faith.").

5. Accordingly, the applicant's request should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXXXXXXXXXX for correction of his military record is denied.

