

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

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Application for the Correction of  
the Coast Guard Record of:

**FINAL DECISION  
BCMR Docket No. 2013-091**



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**SUMMARY OF THE RECORD**

The applicant asked the Board to correct his DD 214 to show that he received a Meritorious Unit Commendation award. He stated that the award was issued on May 20, 1996, for his cutter's service from November 19 – 30, 1995, but that the award is not listed on his DD 214 because he was discharged on April 8, 1996. In support of his application, he submitted a copy of the award citation, a two-page list of members on his former cutter, the CGC [REDACTED], who met the 50 percent criteria for the award, and a separate page of ten names (including his) that were not listed on the other two pages. The applicant's record shows that he sustained a back injury on May 31, 1995, and received a disability discharge on April 8, 1996.

The Judge Advocate General (JAG) recommended denying relief, arguing that the applicant is not eligible for the Meritorious Unit Commendation award because he was being processed through a medical board during the award period, was not fit for sea duty, and was not on the [REDACTED] during the time period for which the award was given. The JAG provided a copy of an October 26, 1995, letter from the applicant to the Medical Board, in which the applicant states "I continued working about the [REDACTED] off and on while the ship was in port up until October 26, 1995." With respect to the list of crewmembers eligible for the award that the applicant submitted, the JAG argued that the page with the applicant's name on it is likely the list of crewmembers that were *ineligible* for the award because they were not aboard the [REDACTED] during the period of that award.

**FINDINGS AND CONCLUSIONS**

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 reasonably should have discovered, the alleged error or injustice. The applicant was discharged on April 8, 1996, and thus his application is untimely. 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 applicant explained that he only recently received his military records and was unaware that the award was not listed on his DD 214. The Board finds that the applicant's explanation for his delay is not compelling because he failed to show that anything prevented him from discovering and seeking correction of the alleged error or injustice more promptly.

A cursory review of the merits of this case indicates that the applicant is unlikely to prevail. The record contains no evidence that substantiates the applicant's allegations of error or injustice in his official military record, which is presumptively correct pursuant to 33 C.F.R. § 52.24(b). Chapter 3.A.1.a.2. of the Medal and Awards Manual states that for a member to be eligible for a Meritorious Unit Commendation, the member must be present during at least 50% of the award period. The record shows that the applicant was being processed through a Medical Board, was not fit for sea duty, and was not actually aboard the CGC [REDACTED] during the time period for which the award was given. Accordingly, the Board will not excuse the application's untimeliness or waive the statute of limitations. The applicant's request should be denied.

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

**ORDER**

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

January 7, 2014  
Date

