

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-048

██████████
██████████ SN (former)

FINAL DECISION

This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application upon receipt of the applicant's completed application on January 10, 2014, and assigned it to staff member ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated July 18, 2014, 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 DD 214 to show that he received a Commandant's Letter of Commendation (LOC), the National Defense Service Medal (NDSM), and the Coast Guard Sea Service Ribbon. He stated that he received a LOC before he was discharged but that it was not included on his DD 214. In support of his application, he submitted a copy of a Letter of Appreciation (LOA) from his former commanding officer dated September 27, 1961. The applicant's record contains a Page 7 dated July 26, 1963, which states that he completed 3 years, 3 months, and 21 days of sea duty while attached to the CGC Mackinaw. His record also shows that he enlisted in the Coast Guard on July 29, 1959, and was honorably discharged on July 26, 1963.

Regarding his delay in submitting his application, the applicant argued that the Board should find it in the interest of justice to consider his application because "I want to set the record straight and it may have a bearing on my VA claim."

VIEWS OF THE COAST GUARD

On June 11, 2014, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant partial relief in accordance with a memorandum submitted by Commander, Personnel Service Center (PSC).

PSC stated that the applicant received a LOA on September 27, 1961, and the applicant mistakenly believes that it is a LOC. Moreover, PSC stated that his service record contains no

evidence of a LOC ever being awarded. With respect the NDSM, PSC stated that the applicant is eligible for the medal because he served on active duty during the eligibility period, January 1, 1961, through August 14, 1974. Finally, PSC stated that the applicant is eligible for the Coast Guard Sea Service Ribbon because he served 12 cumulative months of sea duty aboard the CGC Mackinaw.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 16, 2014, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to submit a response within 30 days. He responded on June 23, 2014, stating that he agreed with the JAG's recommendation.

APPLICABLE LAW AND POLICY

The Board does not have the manual governing the preparation of DD 214s in 1963, but current DD 214s are completed in accordance with a manual, COMDTINST M1900.4D. Chapter 1.E. of the manual provides the following instructions for completing block 13 on a DD 214:

Block 13. Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized (all periods of service). General. Enter all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service. No authorities will be cited.

The list of authorized personal awards in the Medals and Awards Manual includes the Commandant's LOC but not an LOA.

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 must be filed within three years of the day the applicant discovers the alleged error in his record. 10 U.S.C. § 1552(b). The applicant was discharged in 1963 and knew or should have known that items were missing from his DD 214. Therefore, the Board finds that the application was filed some 47 years after the statute of limitations expired and is 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). The applicant argued that the Board should consider his case because he wants to set the record straight and it may have a bearing on his VA claim.

4. Because two of the applicant's requests are clearly meritorious and in light of the JAG's recommendation that partial relief be granted, the Board finds that it is in the interest of justice to waive the statute of limitations in this case.

5. The preponderance of the evidence shows that the applicant never received a Commandant's LOC. The letter submitted by the applicant is a LOA and there is nothing in his record which supports the LOC ever being awarded to him. Moreover, Article 2.A.18. of the Coast Guard Medals and Awards Manual states that the Commandant's LOC was not authorized until March 17, 1979, which was nearly 15 years after the applicant was discharged. Finally, the Board notes that the applicant's LOA is not listed on his DD 214 because an LOA is not listed as a medal, ribbon, or award under the Medals and Awards Manual.

6. The Board finds that the applicant is eligible for the NDSM. He served honorably from July 29, 1959, to July 26, 1963, and Article 5.A.5.a.(1). of the Medals and Awards Manual states that the medal is awarded to members for honorable active service as a member of the Armed Forces for any period (inclusive) from June 27, 1950, to July 28, 1954; from January 1, 1961, to August 14, 1974; from August 2, 1990, to November 30, 1995; or from September 12, 2001, to a date to be determined by the Secretary of Defense.

7. The Board finds that the applicant is eligible for the Coast Guard Sea Service Ribbon because his record contains evidence that he completed 3 years, 3 months, and 21 days of sea duty aboard the CGC Mackinaw, which was a 290' icebreaker that served on the Great Lakes. Article 5.A.5.a.(1). of the Medals and Awards Manual states that the Coast Guard Sea Service Ribbon is awarded 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. For the purposes of the award, sea duty is defined as duty performed aboard any commissioned Coast Guard cutter 65' or more in length.

8. Accordingly, the applicant's record should be corrected to show that he was awarded the National Defense Service Medal and the Coast Guard Sea Service Ribbon. His request to have a LOC included on his DD 214 should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former SN [REDACTED], for correction of his military record is granted in part as follows. The Coast Guard shall correct his record to show that he received the National Defense Service Medal for his active duty service between July 29, 1959, and July 26, 1963. His record shall also be corrected to show that he received the Coast Guard Sea Service Ribbon for his 12 cumulative of months of sea duty. All other requests are denied.

July 18, 2014

