

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-125



FINAL DECISION

This proceeding was conducted according to 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 May 9, 2014, and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated February 12, 2015, 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 served as a [REDACTED] in the U.S. Navy and the Coast Guard Reserve, asked the Board to correct his DD 214 to reflect the Letter of Appreciation and Letter of Commendation that he received during his active duty service in the Navy. He also asked the Board to correct his record to show that he is eligible to receive a Good Conduct Medal (GCM).

In support of his application, the applicant submitted a copy of a Letter of Appreciation from the Commander of the Naval Regional Medical Center, Great Lakes, Illinois, expressing appreciation for the applicant's dedicated service in the U.S. Navy for the period October 7, 1973, through July 28, 1975, when he served as a corpsman on a psychiatric ward. The applicant also submitted a copy of a Letter of Commendation from the Commanding Officer of the Naval Medical Training Institute, dated September 24, 1973, which commends the applicant, who was in the U.S. Navy, for achieving the highest grade in a Neuropsychiatric Technician class.

Regarding the delay in submitting his application to the Board, the applicant stated that he is "unsure" when he discovered the error, but that it is nonetheless in the interest of justice to consider his application as "an afterthought."

SUMMARY OF THE RECORD

The applicant enlisted in U.S. Navy on October 5, 1971, was honorably discharged on July 28, 1975, and served in the Navy Reserve from July 29, 1975, through October 4, 1977. On June 28, 1978, he enlisted in the Coast Guard Reserve for a term of two years, and was honorably discharged on June 27, 1980. The applicant's DD 214 for his service in the U.S. Navy shows that he received the National Defense Service Medal. He did not receive a DD 214 for his service in the Coast Guard Reserve.¹

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4D contains the Commandant's instructions for completing the DD Form 214, and Chapter 1.E. of the instruction lists the decorations, medals, badges, citations and campaign ribbons that can be listed on the DD 214. Letters of appreciation and commendation are not included as items that may be included on the DD 214.

Chapter 5.A.3. of the Medals and Awards Manual, COMDTINST M1650.25D, states that from November 1963 through December 1979, to receive a GCM, a reservist had to complete four consecutive years of service with no court-martial, no non-judicial punishment (NJP), no misconduct, and no civil conviction for an offense involving moral turpitude, as well as minimum average marks of 3.0 for proficiency, leadership, and conduct. Creditable service must have been accrued while serving on active duty in the regular Coast Guard or the Coast Guard Reserve. Since 1980, a GCM has required three consecutive years with no court-martial or equivalent civil conviction, no NJP, no misconduct, a performance factor average in each marking period of not less than 3.0 in any factor, and no conduct characteristic mark less than 4.0.

VIEWS OF THE COAST GUARD

On September 16, 2014, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC argued that the application is untimely because the applicant was discharged in 1978. PSC further argued that relief should be denied because the applicant was serving in the U.S. Navy when the letters of Appreciation and Commendation were issued and the Coast Guard does not have the authority to correct his Naval record. PSC also argued that the applicant is not eligible for a GCM for his service in the Coast Guard Reserve because there is nothing in his record to show that he received any awards while serving in the Coast Guard Reserve.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 23, 2014, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The Board did not receive a response.

¹ A DD 214 is prepared to document a member's release or discharge from active duty. Accordingly, reservists are not normally issued DD 214s unless they perform more than 90 days of continuous active duty. Chapter 1.B.10. of COMDTINST M1900.4D.

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 submission 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 after the applicant discovers the alleged error or injustice.² The applicant was discharged from the Coast Guard in 1978 but did not submit his application to the Board until 2013. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error in his record in 1978, and his application is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.³ In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without “analyz[ing] both the reasons for the delay and the potential merits of the claim based on a cursory review”⁴ to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted 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
4. The applicant did not provide any reason why the Board should waive the statute of limitations in this case and characterized his application as “an afterthought.”
5. A cursory review of the merits of this case indicates that the applicant’s claim cannot prevail because he was serving on active duty in the U.S. Navy when he received the letters of appreciation and commendation. Accordingly, these two items are properly not reflected in his Coast Guard record. Moreover, even if he had been serving on active duty in the Coast Guard instead of the Navy when he received the letters, under COMDTINST M1900.4D, the manual for preparing DD 214s, neither of the letters is authorized to be included on the DD 214.
6. A cursory review further indicates that the applicant is not eligible to receive a GCM for his service in the Coast Guard Reserve. He was discharged from the reserves in 1980 after serving for only two years, and pursuant to Chapter 5.A.3. of the Medals and Awards Manual, COMDTINST M1650.25D, after 1980 a member must have served in the Coast Guard Reserve or regular Coast Guard for at least three consecutive years to earn a GCM. The applicant served in the Coast Guard Reserve for only two years and so did not meet the criteria for a GCM.

² 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

³ 10 U.S.C. § 1552(b).

⁴ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁵ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

7. The record contains no evidence that substantiates the applicant's allegations of error or injustice in his official military record, which is presumptively correct.⁶ Based on the record before it, the Board finds that the applicant's claim cannot prevail on the merits. Accordingly, the Board will not excuse the application's untimeliness or waive the statute of limitations. The applicant's request should be denied.

⁶ 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.").

ORDER

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

February 12, 2015

