

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2015-053**



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**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 February 27, 2015, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated December 31, 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 was honorably discharged from active duty in the Coast Guard Reserve on May 13, 1946, asked the Board to correct his record by listing additional ships and ribbons on his Notice of Separation. The applicant alleged that his Notice of Separation should show the AKA 141, as well as the USS ADM. C. F. HUGHES (AP-124) and the USS ANNAPOLIS (PF-15). Regarding his request for ribbons, he noted only that his medical records from the AP-124 might show that he was awarded the Purple Heart.

The applicant acknowledged that he knew of the alleged errors in 1946 but argued that it is in the interest of justice for the Board to excuse the untimeliness of his application because the requested corrections would help him in seeking medical benefits from the Department of Veterans' Affairs (DVA) and for his children's information.

**SUMMARY OF THE RECORD**

On January 12, 1945, the applicant enlisted in the Coast Guard Reserve. Following training, he advanced to water tender third class (WT3c). An "Abstract of Service" and travel orders in his record list the following duty stations:

<b>SHIP OR STATION</b>	<b>DATE ATTACHED</b>	<b>DATE DETACHED</b>
Sub-Recruiting Office (SRO), [REDACTED]	1-12-45	1-12-45
Manhattan Beach Training Station (MBTS), NY	1-13-45	2-22-45

USMH Ellis Island, NY (hospitalized for pneumonia)	3-12-45	4-6-45
Manhattan Beach Training Station (MBTS), NY	4-11-45	6-23-45
Training Station, Curtis Bay, MD	6-23-45	8-10-45
Training Station, Manning Section, Alameda, CA	8-16-45	8-27-45
ADM. C. F. HUGHES (AP-124)	8-27-45	12-5-45
Training Station, Manning Section, Alameda, CA	12-6-45	12-8-45
USS ANNAPOLIS (PF-15)	12-11-45	5-3-46
Operation Base, Recruiting Unit, Seattle, WA	5-3-46	5-6-46
PSC #9, St. Louis, MO	5-9-46	5-13-46

The applicant's medical records show the following medical conditions and treatment during his service apart: acute pharyngitis (sore throat) on February 20, 1945; and atypical pneumonia from February 22 through April 6, 1945. His medical records show no other diagnoses or treatment for medical conditions or injuries.

A Termination of Service form in the applicant's record shows that he was separated from the Reserve at Personnel Separation Center (PSC) #9 in St. Louis, Missouri on May 13, 1946, with one year, four months, and two days of service. His Notice of Separation, which he signed on May 13, 1946, includes the following information in block 24, which is entitled "Service Vessels and Stations Served On":

MBTS Brooklyn, N.Y.; TS Curtis Bay, Md.; TS Alameda, Calif.; ADM. C. F. HUGHES (AP-124); USS ANNAPOLIS, OB, Seattle, Wash.; PSC #9, St. Louis, Mo.

Block 34 of his Notice of Separation shows that he is entitled to wear the ribbons for the American Theater and Asiatic-Pacific Theater, as well as the World War II Victory Medal.

### **VIEWS OF THE COAST GUARD**

On August 18, 2015, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny the applicant's request and adopting the findings and analysis in a memorandum prepared by the Personnel Service Center (PSC).

PSC noted that the application was not timely submitted and may be denied on that basis. Moreover, PSC stated that the applicant has not submitted any evidence showing that his Notice of Separation is erroneous or incomplete. PSC stated that his Notice of Separation properly shows that he is entitled to wear the American Theater and Asiatic-Pacific Theater ribbons, and the World War II Victory Medal, and he has not shown that he is entitled to any other award. Therefore, PSC recommended that the Board deny the applicant's request.

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On August 21, 2015, 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.

## 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 over this matter under 10 U.S.C. § 1552(a).
2. The applicant asked the Board to correct allegedly incomplete information on his May 13, 1946, Notice of Separation from the Coast Guard Reserve. 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 the alleged error or injustice. The applicant was discharged in 1946 and presumably reviewed his Notice of Separation when he signed it and knew what duty stations were listed in block 24 at that time. Therefore, his application 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."<sup>1</sup>
4. Regarding the delay of his application, the applicant explained that he is trying to get certain benefits from the DVA and to correct his records for his children. The Board finds that the applicant's explanation for his delay is not compelling because he failed to show that anything prevented him from seeking correction of the alleged errors more promptly.
5. A cursory review of the merits of this case indicates that the applicant's allegations of error are not supported by substantial evidence. The record before the Board contains no evidence whatsoever supporting his claim that his Notice of Separation is incomplete or inaccurate regarding the vessels he served on or the ribbons and medals he is entitled to wear. His medical records do not show that he was ever injured in action against the enemy. His Notice of Separation and other military records are presumptively correct,<sup>2</sup> and he has submitted nothing to show that they are erroneous or incomplete. Therefore, the Board finds that the applicant's claim cannot prevail on the merits.
6. Accordingly, the Board will not excuse the application's untimeliness or waive the statute of limitations. The applicant's request should be denied.

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<sup>1</sup> *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).

<sup>2</sup> 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 WT3c [REDACTED], USCG, for correction of his military record is denied.

December 31, 2015

