

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2015-200



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 September 10, 2015, 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 July 8, 2016, 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, a former [REDACTED] who served on active duty in the Coast Guard Reserve in Kuwait and Iraq for approximately ten months on Title 10 orders, asked the Board to correct his discharge form DD 214¹ to show that he received the following awards/medals:

1. Coast Guard Meritorious Team Commendation
2. Letter of Commendation
3. Coast Guard Achievement Medal
4. Iraq Campaign Medal (ICM)

In support of his application, the applicant submitted copies of his certificate for the Meritorious Team Commendation which shows that he received the commendation for his service from February 19, 2004, to November 30, 2004; a copy of his Letter of Commendation for his service from February 2003 to June 2003; a copy of a Coast Guard Achievement Medal and citation for achievement from January 1, 1999, to February 2005; and a list of his honors and awards that he printed from the Coast Guard's personnel database. The list shows that he received ten awards/medals, but the four that he is requesting are not listed. He also submitted a

¹ The DD 214 provides a member and the service with a concise record of a period of service with the Armed Forces at the time of the member's separation, discharge, or change in military status (reserve/active duty).

copy of his DD 214 which shows that he served on active duty under Title 10 orders from February 7, 2003, to July 23, 2003. Block 13 of the DD 214 shows that he received the following decorations, medals, badges, citations, and campaign ribbons:

- 1) Coast Guard Unit Commendation Medal (for 80 days of service in support of Operations Enduring Freedom and Iraqi Freedom)
- 2) National Defense Service Medal
- 3) Armed Forces Expeditionary Medal (AFEM) (Kuwait)
- 4) First Coast Guard Reserve Good Conduct medal for period ending January 31, 2002
- 5) Transportation 9/11 Ribbon
- 6) Armed Forces Reserve Medal w/"M" Device

The applicant alleged that the Meritorious Team Commendation, Letter of Commendation, and the Achievement Medal were not included on his DD 214 due to a simple clerical omission. He also alleged that the ICM was not included on his DD 214 because the medal was authorized on November 29, 2004, but that he left his unit in early 2005.

Regarding the delay in submitting his application, the applicant stated that he discovered the alleged errors in his record on February 20, 2014, when he was required to submit proof of wartime service while applying for a [REDACTED] loan.²

SUMMARY OF THE RECORD

The applicant served on active duty under Title 10 orders in the Coast Guard Selected Reserve (SELRES) from February 7, 2003, to July 23, 2003, and was released from active duty after completing his required active service. He continued to serve in the SELRES from July 24, 2003, to September 7, 2006, before he transferred to the Inactive Ready Reserve (IRR). The applicant's DD 214 shows that while serving under Title 10 orders his duty locations included Integrated Support Command (ISC) [REDACTED], Kuwait, Iraq, and the Arabian Gulf. His DD 214 shows that he served in Kuwait from February 17, 2003, to March 24, 2003, May 25, 2003, to May 29, 2003, and June 6, 2003, to June 16, 2003. It also shows that he served in Iraq from March 25, 2003, to May 24, 2003, and May 30, 2003, to June 5, 2003.

In addition to the awards/medals listed on the applicant's DD 214, the record shows that he also received a Letter of Commendation for service from February 2003 to June 2003. He also received several awards after he was separated from active duty in July 2003, including a Coast Guard Meritorious Team Commendation for service from February 19, 2004, to November 30, 2004; an Achievement Medal for service from January 1999 to February 2005; and the Global War on Terrorism Service Medal.

[REDACTED]

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4D contains the Commandant's instructions for completing the DD 214, and Chapter 1.D.2. provides that it must be accurate as of the date of separation. Chapter 1.E. of the instruction states that the medals and awards block of the DD 214 should show "all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service."

Article 5.A.8. of the Coast Guard Medals and Awards Manual states that the Armed Forces Expeditionary Medal (AFEM) is awarded to members who participate in United States military operations with a unit engaged in the operation or who serve no less than 30 consecutive days in the area of operation. The medal shall be awarded only for operations for which no other U.S. campaign medal is approved.

Article 5.A.12. of the Medals and Awards Manual states that the Iraq Campaign Medal (ICM) was established by Public Law 108-234, dated May 28, 2004, and Executive Order 13363 dated November 29, 2004. Eligibility for the award began on March 19, 2003, and continues to a future date to be determined by the Secretary of Defense or the cessation of Operation Iraqi Freedom. Eligibility for the award requires that the member be a bona fide member of a unit participating in or directly supporting the operation for 30 consecutive days or for 60 non-consecutive days provided this support involves entering the operation's area of eligibility (AOE). The AOE encompasses all land area of the country of Iraq, and the contiguous water area out to 12 nautical miles, and all air spaces above the land area of Iraq and above the contiguous water area out to 12 nautical miles.

Article 5.A.12.(4) of the Medals and Awards Manual states that under no condition will personnel or units receive the ICM, the Global War on Terrorism Expeditionary Medal, the Afghanistan Campaign Medal, or Armed Forces Expeditionary Medal for the same act, achievement, or period of service.

VIEWS OF THE COAST GUARD

On January 28, 2016, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant alternative relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC argued that the application is untimely and should not be considered by the Board beyond a cursory review.

PSC stated argued that the applicant's DD 214 should be corrected to show that he received a Letter of Commendation (LOC). PSC noted that he received the LOC for his service from February 2003 to June 2003 but that it was erroneously omitted from his DD 214.

With regards to the applicant's request for the Iraq Campaign Medal (ICM), PSC argued that he is not eligible for the ICM because his record shows that he also received the Armed Forces Expeditionary Medal, and Article 5.A.12.(4) of the Medals and Awards Manual states that under no condition will personnel receive the ICM and the Armed Forces Expeditionary Medal for the same act, achievement, or period of service.

PSC argued that the applicant's DD 214 should not be corrected to show that he received the Coast Guard Meritorious Team Commendation and Coast Guard Achievement Medal because these two awards were earned after the applicant separated from active duty in July 2003. PSC stated that according to COMDTINST M1900.4D, the Coast Guard instructions for preparing the DD 214, these two awards should not be included on his DD 214 because all entries on a DD 214 are for the current period of active duty through the date of separation, with an exception for awards received for prior service. Accordingly, PSC argued, the Coast Guard Meritorious Team Commendation and Coast Guard Achievement Medal should not be on his DD 214 because the awards were earned in 2004 and 2005 and he was discharged in 2003.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 1, 2016, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. After requesting a short extension he responded on March 21, 2016, and stated that he agreed with the Coast Guard's recommendations.

In his response, the applicant also stated that he would like to exchange his Armed Forces Expeditionary Medal for the Iraq Campaign Medal because other members of his unit were also given the opportunity to exchange their AFEM for the ICM. He stated that he wants the ICM in lieu of the AFEM because the former "best reflects the nature of my active duty." He added that the conditions that he worked and lived in were unique to Iraq and that there were very few members of the Coast Guard in Iraq.

Finally, the applicant requested that he receive formal documentation of his Coast Guard Meritorious Team Commendation and Coast Guard Achievement Medal.

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.³ The applicant was released from active duty in 2003 and but did not submit his application to the Board until 2015. Therefore 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.⁴ 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"⁵ to determine whether

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

⁴ 10 U.S.C. § 1552(b).

⁵ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

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.”⁶

4. The applicant stated that he discovered the alleged errors in his record on February 20, 2014, when he was asked to submit proof of wartime service while applying for a [REDACTED] loan. Although the Board finds that his explanation for his delay is not compelling, a cursory review of his record has revealed errors that should be corrected. Accordingly, the Board will waive the statute of limitations in this case.

5. The applicant alleged that his DD 214 does not list several medals and awards that he received or should have received. The Board begins its analysis in every case by presuming that the disputed information in the applicant’s military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust. 33 C.F.R. § 52.24(b). Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.” *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

6. The applicant asked the Board to correct his DD 214 to show that he earned the Coast Guard Meritorious Team Commendation and the Coast Guard Achievement Medal. The record shows that he received the Meritorious Team Commendation for service from February 19, 2004, to November 30, 2004, and an Achievement Medal for service from January 1999 to February 2005, but they are not listed on his DD 214. The Board finds that these two awards should not be included on his DD 214 because they were earned for service that he performed while in the SELRES from 2003 - 2006, and COMDTINST M1900.4D states that all entries on a DD 214 are for the current period of active duty through the date of separation, with an exception for awards received for prior service.

7. The applicant also asked the Board to correct his DD 214 to show that he earned a Letter of Commendation. His record shows that he was on active duty from February 7, 2003, to July 23, 2003 and that he received a Letter of Commendation for his service from February 2003 to June 2003. Chapter 1.D.2. of the Medals and Awards Manual states that all entries on a DD 214 are for the current period of active duty through the date of separation, and the applicant received the Letter of Commendation while he was on active duty. Therefore, the Board finds that the applicant has proven by a preponderance of the evidence that he received the Letter of Commendation while on active duty and that it was erroneously omitted from his DD 214. Accordingly, Block 13 on the applicant’s DD 214 should be corrected to include the Letter of Commendation that he earned for his service from February 2003 to June 2003.

8. Finally, the applicant asked the Board to correct his DD 214 to show that he earned the ICM instead of the AFEM, the latter of which is currently listed on his DD 214. The record shows that he served under Title 10 orders from February 7, 2003, to July 23, 2003, during which he spent 80 days supporting Operations Enduring Freedom and Iraqi Freedom, and

⁶ *Id.* at 164, 165; see also *Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

his DD 214 shows that he received the AFEM for his service in Kuwait. The Board finds that the applicant is also eligible for the ICM because he served on active duty in Iraq under Title 10 orders for more than 30 days from March 25, 2003, to May 24, 2003, and Article 5.A.12. of the Medals and Awards Manual states that the ICM is awarded to members who serve at least 30 continuous days in the country of Iraq, and the contiguous water area out to 12 nautical miles, and all air spaces above the land area of Iraq and above the contiguous water area out to 12 nautical miles.

9. The Coast Guard argued that the applicant is not eligible to receive both the AFEM and the ICM, citing Article 5.A.12.(4) of the Medals and Awards Manual which states that under no condition will personnel receive the ICM and the AFEM for the same act, achievement, or period of service. The Board disagrees. The applicant received his AFEM for his service in Kuwait from February 17, 2003, to March 24, 2003, but the applicant is eligible for the ICM because he served in Iraq from March 25, 2003, to May 24, 2003, which is a different period of service than the service for which he received the AFEM. Accordingly, the Board finds that the applicant is eligible for the AFEM and the ICM and his record should be corrected by adding the ICM to his DD 214, in addition to the AFEM that is already listed.

10. In the applicant's response to the recommendations of the Coast Guard, he requested that he receive formal documentation of his Coast Guard Meritorious Team Commendation and Coast Guard Achievement Medal. The Board notes that these two documents were included in the Coast Guard's response to the applicant's application to the Board, but the Board recommends that the Coast Guard send the applicant copies of his Coast Guard Meritorious Team Commendation and Coast Guard Achievement Medal.

11. The applicant has proven by a preponderance of the evidence that his DD 214 does not accurately reflect all of the medals and awards that he received for his active duty service from February 7, 2003, to July 23, 2003. Accordingly, his DD 214 should be corrected to show that he received a Letter of Commendation and the Iraq Campaign Medal, in addition to the other medals already listed on the DD 214. All other requests should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former [REDACTED], USCGR, for correction of his military record is granted in part. His DD 214 for the period February 7, 2003, to July 23, 2003, shall be corrected to show that he is eligible for the Iraq Campaign Medal and to show that he received a Letter of Commendation, in addition to the other awards that are currently listed on his DD 214. All other requests are denied.

July 8, 2016

