

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2016-025**



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**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 December 5, 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 September 9, 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 from February 13, 1967, to February 12, 1971, asked the Board to correct his DD 214<sup>1</sup> documenting his active duty to show that he received the following awards:

1. Sea Service Ribbon
2. Combat Action Ribbon
3. Overseas Service Medal
4. Good Conduct Medal
5. Restricted Duty Medal
6. Unit Commendation that was awarded to the CGC [REDACTED]

The applicant argued that he is eligible for these medals because other members that he served with received these medals. Regarding the delay in submitting his application, the applicant argued that the Board should find it in the interest of justice to consider his application and award him the medals because he "served more than four years at sea and out of country and would be proud to have them included on my DD 214 along with the others now listed."

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<sup>1</sup> A DD 214 is prepared to document a member's release or discharge from a period of active duty. COMDTINST M1900.4D.

### SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on February 13, 1967, and served aboard the GCC ██████ from April 25, 1967, to December 8, 1969. On July 6, 1967, he was taken to mast and awarded non-judicial punishment (NJP)<sup>2</sup> by his commanding officer for violating Article 86 (absence without leave)<sup>3</sup> of the Uniform Code of Military Justice (UCMJ) and was punished by being restricted to the CGC ██████ for four days.

The applicant was honorably discharged and released into the Reserve on February 12, 1971, and his DD 214 indicates that he received the following awards and medals during his four-year enlistment:

1. National Defense Service Medal
2. Vietnam Service Medal with Bronze Star
3. Vietnam Campaign Medal

### 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 block 13 of a DD 214 should show "all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service."

Chapter 5.A.21. of COMDTINST M1650.25D, the Coast Guard 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 feet or more in length. The ribbon was authorized on March 3, 1984, and it was not authorized to be issued retroactively.

Enclosure 2 to the Medals and Awards Manual lists the units authorized to receive the Combat Action Ribbon. The CGC Owasco is listed as being eligible for the ribbon for participating in an authorized operation on November 6, 1968.

ALCOAST 215/10 was issued on April 29, 2010, and states that on October 28, 2009, the Commandant of the Coast Guard approved the establishment of the Coast Guard Overseas Service Ribbon. The ALCOAST states that the ribbon is awarded to members who successfully complete a tour of duty of at least 12 months at an overseas shore based duty station or aboard a cutter permanently assigned to an overseas area. Paragraph 2.G. of the ALCOAST also states that personnel who receive or are eligible to receive the Coast Guard Restricted Duty Ribbon are not eligible to receive the Overseas Service Ribbon for the same period. Paragraph 2.H. states

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<sup>2</sup> Article 15 of the Uniform Code of Military Justice (UCMJ) authorizes NJP as a disciplinary measure for minor offenses under the UCMJ.

<sup>3</sup> According to a Page 7 in the applicant's record dated July 6, 1967, he was AWOL for one hour and 20 minutes.

that “[t]he ribbon may be awarded retroactively to personnel who are credited with completion of a tour of at least 12 months of overseas duty at a shore based duty station.”

Enclosure 11 of the Medals and Awards Manual, COMDTINST M1650.25, shows that to receive a GCM from November 1, 1963, through December 31, 1979, a member had to have completed four consecutive years of active duty with no NJP, misconduct, no civil conviction for offense involving moral turpitude, and minimum marks of 3.0 for proficiency, leadership, and conduct (on a 4.0 scale). 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 mark lower than 4.0.

Chapter 5.A.2.a(2)(C) of the Medals and Awards Manual states that when an infraction of discipline results in NJP, a new GCM eligibility period will commence the day following the date NJP is awarded.

Article 5.A.22. of the Medals and Awards Manual, COMDTINST M1650.25D, provides that the Restricted Duty Ribbon is awarded to Coast Guard personnel who complete a permanent change of station (PCS) tour of duty at a shore unit listed in 5-27 of COMDTINST M1650.25D enclosure (18). The CGC Owasco is not listed as being eligible for the Restricted Duty Ribbon. The ribbon was authorized on March 3, 1984, and was not authorized to be issued retroactively.

Enclosure 5 to the Medals and Awards Manual lists the units eligible to receive the Coast Guard Unit Commendation. The CGC Owasco is not listed as an eligible unit.

Enclosure 16 to the Medals and Awards Manual also lists the campaign dates for the Republic of Vietnam Civil Actions Medal First Class Color Unit Citation with Palm and the Republic of Vietnam Meritorious Gallantry Cross Unit Citation with Palm. The former is awarded to Naval forces Vietnam and all subordinate units that served in Vietnam from January 1, 1965, to March 28, 1973, and the latter is awarded to units that served from February 8, 1962, to March 28, 1973.

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

On January 19, 2016, 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 the Commander, Personnel Service Center (PSC).

PSC argued that partial relief should be granted because although applicant’s request is untimely, there are several awards and medals that he is eligible for but that are not listed on his DD 214. PSC performed a comprehensive review of the applicant’s military record and discovered and is eligible for several awards that are not in his records or on his DD 214.

#### ***Medals and Awards Requested by Applicant***

Coast Guard Sea Service Ribbon: PSC recommended that the applicant’s record be corrected to show that he received the Coast Guard Sea Service Ribbon. PSC argued that the applicant is

eligible for the ribbon because his DD 214 indicates that he served more than two years of foreign/sea service, and Chapter 5.A.21. of the Medals and Awards Manual states that the ribbon is awarded to active and inactive duty members of the Coast Guard who, under temporary or permanent assignment, satisfactorily complete a minimum of 12 months cumulative sea duty.

Combat Action Ribbon: PSC recommended that the applicant's DD 214 be corrected to show that he received the Combat Action Ribbon. PSC noted that his records show that he was aboard the GCG [REDACTED] on November 6, 1968, and Enclosure 2 to the Medals and Awards Manual states that members who were assigned to the CGC [REDACTED] on November 6, 1968, are eligible for the ribbon.

Overseas Service Ribbon: PSC argued that the applicant is not eligible for the Overseas Service Medal. PSC noted that pursuant to ALCOAST 215/10, eligibility for the ribbon requires that the member be permanently assigned to an overseas shore based duty station or on board a cutter permanently assigned to an overseas area. PSC argued that the applicant's service aboard the GCG [REDACTED] does not qualify because the cutter was homeported in [REDACTED] from August 15, 1955, to June 27, 1973, and his service aboard the ship is considered deployed duty on a U.S. based ship.

Good Conduct Medal: PSC argued that the applicant is not eligible to receive the GCM. PSC noted that the record shows that he received NJP on July 6, 1967, and this terminated his eligibility for the GCM because according to Enclosure 11 of the Medals and Awards Manual, a member who served during a period between November 1, 1963, to December 1, 1979, is not eligible for the GCM if they received any NJP.

Restricted Duty Medal: PSC argued that the applicant is not eligible to receive the Restricted Duty Medal because the CGC [REDACTED] is not listed in Enclosure 18 to the Medals and Awards Manual as being eligible for the medal.

Unit Commendation Medal: PSC argued that the applicant is not eligible to receive a Unit Commendation Medal because the record shows that he served aboard the CGC [REDACTED] and at [REDACTED] and neither of these is listed in Enclosure 5 or 6 of the Medals and Awards Manual as units eligible to receive a Navy or Coast Guard Unit Commendation.

#### ***Other Medals and Awards Recommended by PSC***

PSC argued that the applicant is not eligible for the Overseas Service Medal, GCM, Restricted Duty Ribbon, or a Navy or Coast Guard Unit Citation, but determined that he is eligible for two other medals that are not currently listed on his DD 214. PSC recommended that the applicant's DD 214 be corrected to show that he received the Republic of Vietnam Civil Actions Medal First Class Color Unit Citation with Palm and the Republic of Vietnam Meritorious Gallantry Cross Unit Citation with Palm.

PSC argued that the applicant is eligible for these two medals because he served aboard the CGC [REDACTED] from April 25, 1967, to December 8, 1969, and according to enclosure 16 of the Medals and Awards Manual, the Vietnamese Government issued the Gallantry Cross to units

who served in Vietnam from February 8, 1962 to March 28, 1973, and the Civil Actions Medal to units who served from January 1, 1965, to March 28, 1973.

PSC concluded that the applicant's service aboard the CGC [REDACTED] makes him eligible for the following awards and recommended that they be added to his DD 214:

1. Combat Action Ribbon
2. Coast Guard Sea Service Ribbon
3. Republic of Vietnam Civil Actions Medal First Class Color Unit Citation with Palm
4. Republic of Vietnam Meritorious Gallantry Cross Unit Citation with Palm

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

On April 25, 2016, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The applicant responded on May 1, 2016, and agreed with the Coast Guard's recommendations.

#### **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. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.<sup>4</sup> The applicant was discharged on February 12, 1971, and his application is untimely.

2. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>5</sup> 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"<sup>6</sup> 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."<sup>7</sup>

3. Regarding the delay of his application, the applicant argued that the Board should consider his application and request for the awards because he "served more than four years at sea and out of country and would be proud to have them included on my DD 214 along with the others now listed." 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 error or injustice more promptly. However, because the Coast Guard has identified clear

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<sup>4</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

<sup>5</sup> 10 U.S.C. § 1552(b).

<sup>6</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

<sup>7</sup> *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

omissions on the applicant's DD 214, which should be corrected, the Board finds that it is in the interest of justice to waive the statute of limitations in this case.

4. The applicant alleged that his DD 214 does not list s [REDACTED] medals and [REDACTED] t [REDACTED] 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).

5. The applicant argued that his DD 214 should be corrected to show that he received a Sea Service Ribbon, and the Coast Guard agreed. The Board finds, however, that he is not eligible for this ribbon because although he served aboard the CGC [REDACTED] for more than two years, from April 25, 1967, to December 8, 1969, the Sea Service Ribbon was first authorized on March 3, 1984, and it was not authorized to be awarded retroactively. Therefore, his request for this ribbon should be denied.

6. The applicant also argued that his DD 214 should be corrected to show that he received the Combat Action Ribbon. The Board agrees and finds that he is eligible for this ribbon because the record shows that he served aboard the GCG [REDACTED] on November 6, 1968, and Enclosure 2 to the Medals and Awards Manual states that members who were assigned to the CGC Owasco on November 6, 1968, when the cutter came under fire, are eligible for the ribbon.

7. The applicant argued that his DD 214 should be corrected to show that he received the Overseas Service Ribbon. The Board finds that he is not eligible for the ribbon because ALCOAST 215/10 states that to receive the ribbon the member must be permanently assigned to an overseas shore based duty station or on board a cutter permanently assigned to an overseas area. In addition, retroactive awards of the ribbon are only authorized for "personnel who are credited with completion of a tour of at least 12 months of overseas duty at a shore based duty station." The record shows that although the applicant served overseas aboard the CGC [REDACTED] there is no evidence that he was assigned to an overseas shore-based duty station for at least 12 months. Therefore, his request for this ribbon should be denied.

8. The applicant requested that his DD 214 be corrected to show that he received a GCM. The Board finds that he is not eligible for the GCM because the record shows that he received NJP on July 6, 1967, and this terminated his eligibility for the GCM, which required four continuous years of active duty without any NJP. Therefore, his request for a GCM should be denied.

9. The applicant requested that his DD 214 be corrected to show that he received a Restricted Duty Ribbon. The Board finds that he is not eligible for the ribbon because the CGC [REDACTED] is not listed in Enclosure 18 to the Medals and Awards Manual as being eligible for the medal. Moreover, the applicant's record does not contain any evidence that he served at another duty station or aboard a cutter for which the ribbon is authorized.

10. The applicant requested that his DD 214 be corrected to show that he was awarded the Coast Guard Unit Commendation. The Board finds that he is not eligible for this award because the record shows that he served aboard the CGC [REDACTED] and at [REDACTED], [REDACTED], and neither of these is listed in Enclosure 5 or 6 to the Medals and Awards Manual as units eligible to receive a Navy or Coast Guard Unit Commendation.

11. After completing a review of the applicant's military records PSC determined that his DD 214 is missing two medals that he did not request on his application to the BCMR. PSC determined that he is eligible to receive the Republic of Vietnam Civil Actions Medal First Class Color Unit Citation with Palm and the Republic of Vietnam Meritorious Gallantry Cross Unit Citation with Palm. The Board agrees. The applicant is eligible for both of these awards because he served in Vietnam during the period April 25, 1967, to December 8, 1969, and Enclosure 16 to the Coast Guard Medals and Awards Manual states that these two awards are given to Naval forces Vietnam and all subordinate units that served in [REDACTED] during that period.

12. The applicant has proven by a preponderance of the evidence that his DD 214 does not accurately reflect all of the medals and awards he received or is eligible to receive. Accordingly, his DD 214 should be corrected to show that he was awarded a Combat Action Ribbon; Republic of Vietnam Civil Actions Medal First Class Color Unit Citation with Palm; and the Republic of Vietnam Meritorious Gallantry Cross Unit [REDACTED] with Palm. All other requests should be denied.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

[REDACTED]

[REDACTED]

**ORDER**

The application of former [REDACTED] [REDACTED] USCG, for correction of his military record is granted in part. His DD 214 shall be corrected to show that he received the following awards and medals:

1. Combat Action Ribbon
2. Republic of Vietnam Civil Actions Medal First Class Color Unit Citation with Palm
3. Republic of Vietnam Meritorious Gallantry Cross Unit Citation with Palm

All other requests are denied.

September 9, 2016

