

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2016-116



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 6, 2016, and assigned it to staff attorney [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated March 23, 2017, 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 June 25, 1979, to May 24, 1988, asked the Board to correct his discharge form DD 214¹ to show that he received the following awards and medals:

1. Coast Guard Commemorative Ribbon
2. Cold War Commemorative Ribbon
3. Coast Guard Bicentennial Unit Commendation Ribbon
4. Coast Guard Overseas Service Ribbon

The applicant asked the Board to review his military record to determine if he is eligible for the above awards and, if so, to update his DD 214 accordingly. He stated that he would like his DD 214 to properly reflect the awards to which he is entitled. He added that these medals may make him eligible to receive additional retirement points.² In support of his application, the applicant submitted copies of his assignment and travel orders, and a letter of commendation. He also submitted a copy of his DD 214 which shows that he served on active duty from June 25,

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).

² He is no longer in the Coast Guard Reserve, but his application to the Board noted that he is or was a member of a state Air National Guard.

1979, to May 24, 1988. Block 13 of the DD 214 shows that he received the following decorations, medals, badges, citations, and campaign ribbons:

- 1) M-16 Rifle Marksman Ribbon;
- 2) .45 Pistol Sharpshooter Ribbon;
- 3) First Coast Guard Good Conduct Award for period ending June 24, 1982;
- 4) Second Coast Guard Good Conduct Award for period ending June 24, 1985; and
- 5) Coast Guard Meritorious Unit Award with "O" Device.

SUMMARY OF THE RECORD

The applicant served on active duty from June 25, 1979, to May 24, 1988. The applicant's assignment history states that while on active duty he was assigned to shore units in New Jersey, Massachusetts, North Carolina, Alaska, and California. On May 25, 1988, he entered the Coast Guard Reserve. According to the applicant's Reserve Retirement Point Statements, he successfully completed the required drills from June 1988, until June 1989. In July, August, October, and November 1989, the applicant did not receive full points for drills, although in September 1989 he made up a few points. After November 1989, he did not attend any more drills. Because of his unsatisfactory performance, his command recommended he be discharged from the Reserve, and he was discharged on May 24, 1991.

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."

According to ALCOAST 003/90, the Coast Guard Bicentennial Unit Commendation is available to any member who served satisfactorily during any period from June 4, 1989, to August 4, 1990. The ALCOAST further states that all members, including "selected reservists who are successfully fulfilling all training obligations," are eligible to receive the award.

ALCOAST 215/10 states that active duty members who successfully complete at least 12 months at an overseas shore based duty station or on-board a cutter permanently assigned to an overseas area are eligible to receive the Coast Guard Overseas Service Ribbon. The ribbon was created in 2009, but the ALCOAST states that members may be awarded retroactively if they have met the requirements. COMDTINST M1650.25E, the Medals and Awards Manual, Article 5.A.21.b. states that overseas is defined as outside of the United States, and that Alaska and Hawaii are not eligible for this award.

VIEWS OF THE COAST GUARD

On October 19, 2016, 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 and should not be considered by the Board beyond a cursory review.

PSC stated that the Cold War Commemorative Ribbon and the Coast Guard Commemorative Ribbon are civilian, rather than military, ribbons. The Coast Guard does not maintain or dictate policy on such ribbons, and therefore cannot address or determine the applicant's eligibility for these ribbons.

With regards to the applicant's request for the Coast Guard Bicentennial Unit Commendation, PSC argued that he is not eligible because the eligibility period is from June 4, 1989, to August 4, 1990. The applicant served in the Coast Guard from June 25, 1979, to May 24, 1988. PSC argued that the applicant is therefore ineligible for this ribbon.

With regards to the applicant's request for a Coast Guard Overseas Service Ribbon, PSC argued that only members who successfully complete a tour of duty of at least 12 months at an overseas duty station or on-board a cutter permanently assigned to an overseas area are eligible to receive this ribbon. PSC argued that the applicant did not serve at any units that are considered to be "overseas" according to his assignment history and he is therefore ineligible to receive this ribbon.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 25, 2016, the Board sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 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 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 discharged from active duty in 1988 and but did not submit his application to the Board until 2016. 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 the interest of justice supports a waiver of the statute of limitations. The court noted that "the

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).

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 provided no explanation for his delay in filing. The Board finds that the applicant’s delay is not justified because he failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.

5. The applicant alleged that his DD 214 does not list several medals and awards that he may have been entitled to receive. 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.⁷ 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.”⁸

6. The applicant asked the Board to correct his DD 214 to show that he earned the Cold War Commemorative Ribbon and the Coast Guard Commemorative Ribbon. According to COMDTINST M1900.4 (series), Article 1.E.13.1., all awards which are authorized will be entered on a DD 214. Neither of these ribbons is listed in the Coast Guard Medals and Awards Manual, and PSC stated that these ribbons are civilian awards. The applicant is therefore not entitled to have these ribbons added to his DD 214, and his request should be denied.

7. The applicant also asked the Board to correct his DD 214 to show that he earned the Coast Guard Bicentennial Unit Commendation. According to ALCOAST 003/90, the eligibility period for this award is from June 4, 1989, to August 4, 1990. The applicant was discharged from active duty on May 24, 1988. The applicant was in the Coast Guard Reserve from May 25, 1988, until May 24, 1991. However, ALCOAST 003/90 states that reservists must have been successfully fulfilling their training obligations to be eligible for the award. The applicant was not fulfilling his training obligations successfully, as evidenced by his Reserve Retirement Points Statements. While he did attend some drills during the eligibility period, beginning in July 1989, he started to receive fewer points than required, and beginning in December 1989, he failed to show up for drills at all. Because he was not on active duty nor successfully fulfilling his Reserve training obligations, his request for the Coast Guard Bicentennial Unit Commendation should be denied.

8. Finally, the applicant asked the Board to correct his DD 214 to show that he earned the Coast Guard Overseas Service Ribbon. The record shows that he served at units in New Jersey, Massachusetts, North Carolina, Alaska, and California. The applicant has not proven by a preponderance of the evidence that he served at an overseas base or on a cutter permanently assigned to an overseas area. Therefore, in accordance with the criteria for this

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

⁷ 33 C.F.R. § 52.24(b).

⁸ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

award in Chapter 5.A.21.b. of the Medals and Awards Manual, his request for the Coast Guard Overseas Service Ribbon should likewise be denied.

9. The Board's cursory review of the case shows that the applicant's requests cannot prevail on their merits and he has not justified the untimeliness of his request. Therefore, the Board will not excuse the untimeliness of the application or waive the statute of limitations. Accordingly, his requests should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

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

March 23, 2017

