

**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. 2016-132**



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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 May 27, 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 commissaryman (CS3/E-4) who served on active duty in the Coast Guard from 1960 to 1964, asked the Board to correct his discharge form DD 214<sup>1</sup> to show that he is entitled to wear the National Defense Service Medal (NDSM) and "heroism awards for rescues," and to show that he was promoted to E-5 on the date of his discharge. The applicant stated that he is eligible for more medals than he received at the time of his discharge.

In support of his application, the applicant submitted a copy of his DD 214, which indicates that he received a Coast Guard Good Conduct Medal for the period of September 27, 1960, to September 26, 1963.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on September 27, 1960, and after completing recruit training he served as a commissaryman. The applicant's DD 214 shows that he served on active duty for four years, including more than two years of sea duty aboard the Coast Guard cutters [REDACTED] and [REDACTED] until September 25, 1964, when he received an honorable discharge at the end of his enlistment. He was recommended for reenlistment. The Coast Guard Good Conduct Medal is the only medal listed on his DD 214.

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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.

## APPLICABLE LAW AND REGULATIONS

Chapter 5.A.4. of the Coast Guard Medals and Awards Manual states that the NDSM is awarded to members for honorable active service as a member of the Armed Forces for any period (inclusive) from June 27, 1950, to July 28, 1954; from January 1, 1961, to August 14, 1974; from August 2, 1990, to November 30, 1995; or from September 12, 2001, to a date to be determined by the Secretary of Defense.

Chapter 5.A.19. of the 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. This award was authorized on March 3, 1984, and was not made retroactive.

Article 2.A.8. of the manual provides the following eligibility criteria for the Coast Guard Medal:

[The medal may] be awarded to a person who, while serving in any capacity with the Coast Guard, distinguishes him or herself by heroism not involving actual conflict with an enemy. To justify this decoration, individuals must have performed a voluntary act of heroism in the face of great danger to themselves and such as to stand out distinctly above normal expectations. For acts of lifesaving or attempted lifesaving, the Coast Guard Medal requirements parallel those of the Gold Lifesaving Medal in that one displays extreme and heroic daring at the risk of one's own life.

Article 2.A.11. of the manual provides the following eligibility criteria for the Meritorious Service Medal (MSM):

[This medal may] be awarded to persons who have distinguished themselves by outstanding noncombat meritorious achievement or service to the United States. To justify this decoration, the acts or service rendered must have been comparable to that required for the LOM [Legion of Merit] but in a duty of lesser, though considerable, responsibility. This should not be interpreted to preclude the award to any individual regardless of rank or rate, whose outstanding meritorious achievement or service meet the requirements. The MSM is the noncombat counterpart of the Bronze Star Medal... Therefore, acts of heroism of lesser degree than the Coast Guard Medal, and single acts of merit under operational conditions may justify this award. For Coast Guard personnel in a leave or liberty status, if deemed appropriate, the Silver Lifesaving Medal (SLM) is the counterpart in cases of heroic acts involving the saving of life from perils of the water. When the degree of meritorious achievement or service rendered is not sufficient to warrant the award of the MSM, the Coast Guard Commendation Medal (CGCM) should be considered.

Article 2.A.13. of the manual provides the following eligibility criteria for the Coast Guard Commendation Medal (CGCM):

[This medal may be awarded] to a person who, while serving in any capacity with the U.S. Coast Guard, including foreign military personnel, distinguishes him or herself by heroic or meritorious achievement or service. To merit this award, the acts or services must be accomplished or performed in a manner above that normally expected and sufficient to distinguish the individual above others of comparable grade or

rating performing similar services.

Article 4.A.1. of the manual states that the Gold and Silver Lifesaving Medals may be awarded to any person who rescues another person from the perils of water. Military members on active duty would not normally be recommended for these medals; however, “military personnel may be recommended for a Lifesaving Medal if the act of heroism was performed while the individual was in leave or liberty status.”

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

On November 3, 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 despite the fact that his request is untimely.

PSC stated that the applicant is eligible for the NDSM because the Medals and Awards Manual states that the NDSM is awarded to those who have completed honorable active service as a member of the Armed Forces for any period from January 1, 1961, to August 14, 1974. PSC argued that the applicant is eligible for the medal because he served on active duty from September 27, 1960, until his honorable discharge on September 25, 1964.

PSC stated that the applicant is entitled to receive a Coast Guard Sea Service Ribbon because the Medals and Awards Manual states that the ribbon is awarded to members who satisfactorily complete a minimum of 12 months cumulative sea duty. PSC stated that the applicant served one year, five months, and twenty-eight days of sea duty, and is therefore eligible to receive the Coast Guard Sea Service Ribbon.

With regards to the applicant’s request that he be advanced to an E-5 on the date of discharge, PSC argued that there is no evidence based on the applicant’s record to support this contention. PSC stated that the applicant’s CG-3303, Classification Training and Rating Sheet, denotes the applicant’s successful completion of the Coast Guard Institute Course for CS2-2; however, this course is not the only requirement for advancement. The applicant’s Service Record Card states that he advanced to a CS3 on November 16, 1963, and that he remained in that rate until his discharge on September 25, 1964.

Finally, PSC argued that the applicant did not provide any evidence to support his contention that he is eligible for “heroism awards for rescues.” Therefore, PSC concluded, the applicant’s DD 214 should be corrected to show that he was awarded the NDSM and the Coast Guard Sea Service Ribbon, and that no other corrections are warranted.

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

On November 4, 2016, the Board sent the applicant a copy of the Coast Guard’s views and invited him to respond within 30 days. On November 30, 2016, the Board received the applicant’s response. Regarding the delay in filing with the Board, the applicant stated that he learned recently, after consulting with his local Department of Veterans’ Affairs Office, that his military record lacks certain information.

Regarding the rescues, the applicant stated that he was involved in two rescues during his time in the Coast Guard. The first was on October 22, 1962, when a passenger plane crashed in the water, and the applicant's boat responded for search and rescue. The applicant stated that Coast Guard "personnel lowered boats to the lift rafts, aircraft passengers and crew transferred to the boats, and [Coast Guard] personnel raised the boats to the...deck. [The] personnel provided the rescued people with hot food and warm, dry clothing." All 102 and passengers and crew on board were saved.<sup>2</sup>

The second was during the summer of 1964, when the applicant claimed, he used binoculars to spot two children who had been pulled out to sea by the tide. He stated that his boat proceeded to the children, approximately ten miles from shore, and transported the children back to land.<sup>3</sup>

### 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.<sup>4</sup> The applicant was discharged from the Coast Guard in 1964 and received his DD 214 showing his medals and pay grade at that time, but did not submit his application to the Board until 2016. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged errors in his record in 1964, 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.<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>
4. Regarding the delay of his application, the applicant argued that the Board should consider his application because he only recently learned, after consulting with his local Department of Veterans' Affairs office, that his military record lacks certain medals. The Board

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<sup>2</sup> The applicant's military record supports this account. He received compensation for clothing he provided to passengers of the plane, and he received a letter of thanks for the rescue in his record.

<sup>3</sup> There is no evidence of this rescue in the applicant's military record.

<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).

finds that the applicant's explanation for his delay is not compelling because he received his DD 214 showing his pay grade and listing his medals in 1964. However, because there is a medal to which the applicant is entitled, the Board finds that it is in the interest of justice to 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 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."<sup>8</sup>

6. The Board finds that the applicant is eligible for the NDSM. He served honorably from September 27, 1960, to September 25, 1964, and Article 5.A.4. of the Medals and Awards Manual states that the NDSM is awarded to members for honorable active service as a member of the Armed Forces for any period (inclusive) from June 27, 1950, to July 28, 1954; from January 1, 1961, to August 14, 1974; from August 2, 1990, to November 30, 1995; or from September 12, 2001, to a date to be determined by the Secretary of Defense.

7. The Board finds that the applicant is not eligible for the Coast Guard Sea Service Ribbon. Article 5.A.19. of the 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. However, this medal was authorized on March 3, 1984, and was not made retroactive. Because the applicant was discharged in 1964, he is not authorized to receive the Coast Guard Sea Service Ribbon.

8. The Board finds that the applicant has not shown that he is eligible for any additional medals. He requested "heroism awards for rescues," and described two rescues which he took part in while serving with the Coast Guard. Search and rescue efforts are one of the Coast Guard's core missions. The applicant has not proven by a preponderance of the evidence that he went above the normal expectations of a Coast Guard member, as is required for receipt of such medals. He is therefore not entitled to any additional medals or awards.

9. The applicant also requested that his DD 214 be changed to show that he was promoted to E-5 on the date of his discharge. According to the applicant's Service Record Card, he was advanced to CS3 on November 16, 1963, and he remained at this rate until his discharge on September 25, 1964. The applicant has not proven by a preponderance of the evidence that he was advanced to an E-5 on the date of his discharge. This request should therefore be denied.

10. 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 is eligible for. Accordingly, his DD

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

214 should be corrected to show that he was awarded the National Defense Service Medal. All other requests should be denied.

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

**ORDER**

The application of former [REDACTED] USCG, for correction of his military record is granted in part. His DD 214 shall be corrected to show that he received the National Defense Service Medal. All other requests are denied.

March 23, 2017

