

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-089

████████████████████
████████████████

FINAL DECISION

This proceeding was conducted in accordance with 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the applicant's completed application, including the military records, on February 24, 2017, and assigned it to staff member ██████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated October 27, 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 is a former ██ who served in the Navy from January 1966 to May 1972 and then served in the Coast Guard from 1978 until he retired in 1998. He asked the Board to correct his Coast Guard discharge form DD 214¹ to show that he received the Republic of Vietnam Meritorious Unit Citation (Gallantry Cross Medal or Gallantry Cross Medal Unit Citation with Palm). He alleged that he is eligible for the medal because while in the Navy he served aboard the U.S.S. Jamestown AGTR-3 in Vietnam from January to December 1969. The applicant argued that the Navy failed to ensure that the crew of the Jamestown received the medal and that when the Navy forwarded his personnel record to the Coast Guard, it failed to verify the accuracy of his record and include the medal. He stated that he needs the medal added to his DD 214 because he is seeking membership in a Vietnam veterans' organization and his record must reflect all of the awards that he earned during his Navy service from 1966 to 1972, including his service in Vietnam in 1969.

The applicant stated that he discovered the error in his record on January 16, 2017, and argued that the Board should find it in the interest of justice to consider his application because as one of the departing crew of the Jamestown, he never knew that they had been awarded the Republic of Vietnam Meritorious Unit Citation. He stated that the medal is not listed on his Navy DD 214.

¹ A DD 214 is prepared to document a member's release or discharge from a period of active duty.

SUMMARY OF THE RECORD

The applicant served in the U.S. Navy from January 25, 1965, through May 13, 1972, and a Statement of Creditable Sea Service in his Coast Guard record shows that he served aboard the U.S.S. Jamestown from March 19, 1969, through December 18, 1969. But his Coast Guard record does not contain his Navy DD 214. He enlisted in the Coast Guard on May 12, 1978, and retired on August 31, 1998. The DD 214 that he received for his last ten years of active service in the Coast Guard shows that he received the Vietnam Service Medal and the Republic of Vietnam Campaign Medal.

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4D, the Medals and Awards Manual, 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 DD 214 should show "all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service."

Enclosure 16 to the Medals and Awards Manual authorizes certain foreign awards. It states that the Republic of Vietnam Gallantry Cross Medal Color with Palm was awarded from February 8, 1962, to March 28, 1973, and the Republic of Vietnam Civil Actions Medal, First Class Color with Palm was awarded from January 1, 1965, to March 28, 1973. These awards were issued to individuals who accomplished deeds of valor and to units for particular periods. The unit citation was first issued in 1968 and in 1974 it was authorized for those who served with Naval Forces Vietnam and all subordinate units from February 8, 1962, to March 28, 1973.

VIEWS OF THE COAST GUARD

On July 6, 2017, 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 relief should be denied as untimely because the applicant was discharged in 1998 and he did not provide sufficient justification for the extreme untimeliness of his application. Moreover, regarding the merits of the case, PSC argued that the applicant is not eligible to have the Gallantry Cross Medal or Gallantry Cross Medal Unit Citation with Palm listed on his DD 214 because his record shows that he enlisted in the Coast Guard in 1978, but the medal was authorized for service from February 8, 1962, to March 28, 1973. PSC stated that the applicant was in the Navy from January 25, 1965, through May 13, 1972, and that he should submit an application to the Board for Correction of Naval Records to have the medal added to his DD 214 for his Navy service.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 14, 2017, the BCMR Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The Chair did not receive a response.

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.² Although the applicant was separated from the Navy in 1972 and from the Coast Guard in 1998, he alleged that he never knew he was entitled to the Republic of Vietnam Meritorious Unit Citation (Gallantry Cross Medal or Gallantry Cross Medal Unit Citation with Palm) until recently. The medal was authorized for all U.S. Naval Forces and subordinate units serving in Vietnam in 1974, after his discharge from the Navy. Because there is no evidence of how the applicant would have learned about this authorization after his separation from the Navy, the preponderance of the evidence shows that his application is timely.

2. The applicant alleged that his Coast Guard DD 214 issued upon his retirement in 1998 is erroneous and unjust because it does not mention his entitlement to wear the Republic of Vietnam Meritorious Unit Citation, known as the Gallantry Cross Medal Unit Citation with Palm. When considering allegations of error and injustice, the Board begins its analysis 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.³ 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."⁴

3. The record before the Board currently contains insufficient evidence to support the applicant's claim that he is entitled to have the Gallantry Cross Medal Unit Citation with Palm added to his Coast Guard DD 214. The record shows that he served in Vietnam from January to December 1969 as a member of the U.S. Navy, and according to the Coast Guard Medals and Awards Manual, the medal was awarded for service in Vietnam during that period. However, the applicant has admitted that the medal is not shown on his Navy DD 214. Therefore, the Board finds that the applicant should apply to the Board for Correction of Naval Records (BCNR) to have the Navy determine his entitlement to the medal. If the BCNR corrects the applicant's Navy DD 214 to show that he is entitled to the medal, the applicant should re-apply to this Board to request that the medal be added to his Coast Guard DD 214.

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

³ 33 C.F.R. § 52.24(b).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

4. Therefore, the applicant's request should be dismissed without prejudice. He should submit an application to the Board for Correction of Naval Records to have the medal added to his Navy DD 214. If the BCNR adds the medal to his Navy DD 214, he should reapply to this Board to have the medal added to his Coast Guard DD 214.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of [REDACTED], USCG (retired), for correction of his Coast Guard military record is dismissed without prejudice. He should submit an application form DD 149 to the Board for Correction of Naval Records to have the Gallantry Cross Medal Unit Citation with Palm added to his Navy DD 214. If that board adds the medal to his Navy DD 214, he may reapply to this board have the medal added to his Coast Guard DD 214.

October 27, 2017

