

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-113



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 March 8, 2017, 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 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 asked the Board to correct his discharge form DD 214¹ dated January 21, 1971, documenting his enlisted service, to reflect all of the awards that he received during his career in the Coast Guard Reserve from August 18, 1970, through June 30, 1981, when he was discharged from the Reserve as a lieutenant (LT).

In support of his application, he submitted a copy of two DD 214s, the first of which shows that he entered active duty to attend Officer Candidate School on September 5, 1970, and was honorably discharged from enlisted status on January 21, 1971, to accept a commission as an officer in the Reserve. This DD 214 also shows that he earned the National Defense Service Medal (NDSM) during that period of service. The second DD 214 shows that he served on active duty as a Reserve officer from January 22, 1971, to September 1, 1973, and earned the Expert Pistol Shot Medal.

¹ The DD Form 214 provides the 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). In addition, the form is an authoritative source of information for both governmental agencies and the Armed Forces for purposes of employment, benefit and reenlistment eligibility, respectively. The DD 214 is issued to members who change their military status among active duty, reserve, or retired components or are separated/discharged from the Coast Guard to a civilian status. COMDTINST M1900.4D.

The applicant stated that he discovered the alleged error in his record on February 18, 2016, but did not state why he did not discover the error upon his release from active duty in 1973.

SUMMARY OF THE RECORD

The applicant's record shows that he enlisted in the Coast Guard Reserve on August 18, 1970, and was ordered to active duty on September 5, 1970, to attend Officer Candidate School. He was discharged from enlisted status on January 21, 1970, to accept a commission as an ensign in the Reserve. He served on active duty as a Reserve officer from January 22, 1971, to September 1, 1973, when he was released from active duty. The applicant served in the Reserve until he was discharged on June 30, 1981.

The applicant's record shows that he earned the NDSM during his first enlistment from September 5, 1970, to January 21, 1971, and earned and the Expert Pistol Shot Medal as an officer on active duty from January 22, 1971, to September 1, 1973. The NDSM is included on his first DD 214 but is not listed on the second DD 214 with the Expert Pistol Shot Medal.

APPLICABLE LAW AND REGULATIONS

Enclosure (1) to COMDTINST 1900.4A, issued in 1975, is the oldest edition of the the Commandant's instructions for completing the DD 214 available to the Board. Enclosure (1) states that the decorations, medals, and awards block on the DD 214 should show "all decorations, medals, badges, commendations, and campaign ribbons awarded or authorized during the current tour of active service." More recent editions of the DD 214 manual state that the medals and awards earned during all periods of service should be listed on a member's DD 214, but also that the DD 214 should be accurate as of the date of discharge.

VIEWS OF THE COAST GUARD

On August 4, 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 the application is not timely and should not be considered by the Board because the applicant was discharged in 1973 and he did not provide any justification for the delay in submitting an application to the Board.

Regarding the merits, PSC argued that relief should be denied because the policy at the time of the applicant's discharge directed that only decorations and medals awarded or authorized during the current period of service should be included on the DD 214. PSC noted that the applicant received the NDSM during his first period of service and received the Expert Pistol Shot Medal during his second period of service and that both medals are properly recorded on the DD 214 for the period of service in which the medal was earned.

PSC argued that the applicant's request to list all of his medals and awards on his DD 214 from 1971 should be denied. PSC noted that the applicant's NDSM is properly listed on the DD 214 that he received on January 21, 1971, and his Expert Pistol Shot Medal is properly listed on the DD 214 that he received on September 1, 1973. PSC stated that it also conducted a review of the applicant's personnel record which revealed that he is not eligible for any further awards.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 10, 2017, the BCMR 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. Although the applicant alleged that he only recently noticed the alleged error, he received and signed his DD 214s and presumably knew their contents in 1971 and 1973. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged errors in his record no later than 1973 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.² 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"³ 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."⁴

3. The applicant did not explain why he waited so long to submit his application to the Board, and he failed to identify anything that prevented him from seeking correction of the alleged error or injustice within three years of discovering the alleged errors in his record.

4. The Board's cursory review of the merits of this case indicates that the applicant's claim cannot prevail. The record shows that he earned the NDSM during his first enlistment and the medal is properly recorded on the DD 214 for that enlistment. The record also shows that he earned the Expert Pistol Shot Medal during his second enlistment and it is also properly recorded on his second DD 214. Although the current manual for the preparation of the DD 214 states that a DD 214 should reflect all of the medals earned during all periods of service, Enclosure (1) to COMDTINST 1900.4A, the Commandant's 1975 instructions for preparing the DD 214, states that only medals earned during the current tour of active service are to be recorded on the DD

² 10 U.S.C. § 1552(b).

³ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁴ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

214. Moreover, a DD 214 should be accurate as of the date of discharge, and the applicant had not yet received his marksmanship award when he was discharged from enlisted status in 1971.

5. Accordingly, the preponderance of the evidence shows that the applicant's two DD 214s were prepared in accordance with the applicable instructions at the time because each DD 214 includes only the medal that was earned during the period of service for which that DD 214 was prepared.

5. Therefore, the Board will not excuse the application's untimeliness or waive the statute of limitations. The applicant's request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

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

October 27, 2017

