

**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. 2017-128**

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**FINAL DECISION**

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the applicant's completed application on March 30, 2017, and assigned it to staff attorney ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 9, 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 retired Commander, asked the Board to correct his DD 214,<sup>1</sup> dated October 31, 1979, to show that he received the Coast Guard Achievement Medal (CGAM). He alleged that he should have been awarded the CGAM for "exceptional work" he performed in the improvement of navigation-related technology while stationed at Coast Guard Headquarters from 1968 to 1973. He claimed that his commanding officer (CO) did not like him only because he was a "mustang" officer, meaning an officer who came up through the enlisted ranks as opposed to having graduated from the Coast Guard Academy. The applicant stated that although the National Aeronautics and Space Administration (NASA), the Naval Observatory, the National Bureau of Standards, and an engineering study group congratulated him and thanked him for his work, his CO never did in four years.

The applicant stated that it took him almost five years after he retired to receive four ribbons that he had earned. He now helps other Coast Guard veterans receive awards and ribbons. He explained that after working with veterans, he looked over his record again and realized that "there was a seven year period when [his] knowledge and capabilities were severely tested." The applicant noted that during the period in question, he received several "letters of honor" from colleagues and administrators, but "nothing of honor from [his] own organization."

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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.

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 because he has helped many retired Coast Guard members request and receive awards they had earned while on active duty after he “had gone through three attempts to receive such awards” himself.

To support his request, the applicant provided several documents which are described below in the Summary of the Record. He also provided a picture of a piece of technology which, he stated, he played a large role in designing and creating. In addition, he provided three letters that he had sent to the Coast Guard requesting certain medals. The first is dated December 26, 2014, and in it the applicant described his 26 years of service in the Coast Guard. He explained the letters and medals he had received in appreciation for his hard work and dedication. He discussed his published articles, the international work he did in support of the Coast Guard’s mission, and how much he had saved the Coast Guard money by performing repairs to expensive and complex equipment. In this letter, the applicant requested a Restricted Duty Ribbon, a Commandant’s Letter of Commendation Ribbon representing eight such letters, and the CGAM for his “design of the multi-use bench used for testing and maintenance with various electronic equipment.” He stated that he received the first two awards after he sent this letter to the Coast Guard.

The second letter, dated January 2, 2015, was sent to add some information to his December 26, 2014, request. Regarding the CGAM, he emphasized that he “not only met the requirements stipulated for the projects [he] was working on, [he] went beyond them and provided additional features and/or operational uses.” Professional achievement, which is one of the eligibility requirements, was emphasized and the applicant focused on the portion that reads “professional achievement must clearly exceed what is normally required or expected, considering the individual’s rank or rate, training and experience.” He argued that he had met all of the requirements. He also noted that during that time period, he was also going to school at night to earn a Bachelor’s degree in Electronics Technology.

The third letter, dated February 5, 2015, added information regarding the applicant’s duty stations during the period for which he was requesting the CGAM. He stated that the information regarding the employees and projects would help the Coast Guard determine which awards he was eligible to receive.

### **SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on April 20, 1954. On December 1, 1962, he was commissioned as an officer.

On May 16, 1968, the Chief of the Engineering Office at Coast Guard Headquarters sent the applicant a letter of appreciation for his work on transceiver projects. It states that the applicant had been closely connected with three transceiver projects for two and a half years, in which time he conceived and fabricated an important prototype, performed tests, reported deficiencies, and made improvements to assist technicians in the field. The applicant was noted to have “displayed a high level of diligence, tenacity, and professional ability.” He was commended for his

efforts, which reflected positively on the applicant himself and his command.

On August 4, 1969, NASA sent a message to the applicant's command to express appreciation for providing temporary assistance in developing technology for the Apollo 11 mission. The message provided "special recognition" to the applicant for his service and professionalism which "contributed greatly to the success of the first lunar landing mission."

On October 20, 1969, the Chairman of a Study Group at the National Bureau of Standards sent a letter to the Chief of the Electronics Engineering Division at Coast Guard Headquarters to express his "very great appreciation" for having the applicant as a member of the Study Group. He stated that the applicant's "interest in, capacity for, and application to his work were truly outstanding." He added that the applicant's participation "was instrumental in raising the estimation and good will concerning the U.S. participation in the eyes of foreign" delegates. The applicant's performance was congratulated and commended.

The applicant also received a letter dated November 13, 1969, from a Rear Admiral of the Coast Guard regarding his "initiative and imagination" for his work in the Study Group. The Rear Admiral commended the applicant's effort and interest and thanked him for representing the Coast Guard in a dynamic and outstanding way.

On November 3, 1970, the Chairman of a Study Group at NASA sent a letter to the Chief of the Office of Engineering at Coast Guard headquarters regarding his desire to have the applicant as a member of his Study Group. He described the goals and purpose of the international Study Group and stated that he had come to the conclusion that the applicant would best represent the United States. He stated that the applicant would be a superior choice due to his abilities and professionalism and requested the Chief's permission for the applicant's appointment. The applicant was approved to be a part of this Study Group on November 18, 1970. The applicant's CO stated that he appreciated the recognition of the applicant's abilities and believed that he would do very well in this group.

On December 23, 1971, the Superintendent of the Naval Observatory sent the Commandant of the Coast Guard a letter in appreciation of the applicant's work. The letter notes that the applicant provided thorough and precise work and displayed a high degree of professional competency. The Superintendent noted a "very substantial increase in both quantity and quality" in the engineering department's projects that fell under the applicant's responsibilities. The letter speaks very highly of the applicant and his contributions to the Naval Observatory.

In May 1972, a special issue of Proceedings of the Institute of Electrical and Electronics Engineers was released. The applicant was a co-author on two articles in this issue.

The applicant retired from the Coast Guard on October 31, 1979. The decorations and medals listed on his DD 214 and on a correction form DD 215 issued in 1982 are the following:

- Coast Guard Commendation Medal w/2 Gold Stars, denoting three awards of this medal for the applicant's work during the periods July 1973 to November 1975, September 1976 to September 1977, and October 1977 through October 1979.

- Good Conduct Medal w/1 Bronze Star for his enlisted service,
- National Defense Medal w/1 Bronze Star,
- Artic Service Medal,
- Expert Rifle Medal w/Silver ‘E’,
- Expert Pistol Medal w/ Silver ‘E’,
- Overseas Service Ribbon,
- Sea Service Deployment Ribbon,
- Commandant’s Letter of Commendation Ribbon, and
- Restricted Duty Ribbon.

### **APPLICABLE LAW AND REGULATIONS**

The Military Medals and Awards Manual, COMDTINST 1650.25E, states that the CGAM was authorized by the Commandant on June 11, 1968. The eligibility requirements state that the CGAM may be awarded to members who distinguished themselves via professional or leadership achievement “based on sustained performance or specific achievement of a superlative nature which must be of such merit as to warrant more tangible recognition” than a Commendation Ribbon.” To merit the award for professional achievement, a member must “clearly exceed what is normally required or expected, considering the individuals’ rank or rate, training and experience, and must be an important contribution.” To merit the award for leadership achievement, the achievement must “be noteworthy and sustained, or if for a specific achievement, be of such merit as to earn singular recognition; and reflect most creditably on the individual’s efforts towards mission accomplishment.”

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

On August 29, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief. The JAG noted that the decision to approve awards is “within the discretion of the approval authority.” The JAG argued that the applicant did “present evidence of outstanding commitment to the Coast Guard,” but did not prove that his CO’s failure to submit or approve a CGAM was an injustice or an error. The JAG stated that even if the applicant’s argument that his CO was biased against him due to his commissioning source were accepted, it still would not establish the presence of an error or injustice “because there was no affirmative obligation on any member of his chain to grant him an award.”

In recommending that the Board deny relief, the JAG also submitted his recommendation in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC argued that relief should be denied because his request is untimely. As to the merits, PSC stated that the applicant did not prove that an error or injustice exists in his record. Although the applicant was heavily involved with various important engineering projects, the period in question was more than forty years ago. PSC is unable to gather any evidence regarding the applicant’s accomplishments, as his rating chain is no longer in the Coast Guard. PSC therefore recommended that the Board deny relief on the basis of untimeliness.

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

On September 18, 2017, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. He responded on October 10, 2017, and stated that he disagreed with the Coast Guard's advisory opinion. Regarding the timeliness of his application, he stated that it took him nearly five years after his retirement to acquire some of his earned rewards. He stated that had he known about the Board's statute of limitations, he would have "taken advantage of its existence" sooner.

The applicant stated that in 2014, when the Coast Guard retired the navigation system he had worked on, many veterans who had worked at remote navigation-related stations "were wondering how to get the Restricted Duty Ribbons they had earned." The applicant offered to help, and he stated that he had helped 134 veterans to date receive medals and ribbons to which they were entitled. During this process, the applicant claimed, he helped the Coast Guard develop a system for veterans to request and receive awards and ribbons to expedite and streamline the process.

The applicant also reiterated the complex and important work he did for the Coast Guard during the period in question. He argued that the CGAM should be awarded to him because he fits under the Professional Achievement component of the award. He discussed the traveling he did for the Coast Guard pursuant to his work on these projects and the repairs he performed on navigation technology at various units. The applicant again requested that the Board grant his request for a CGAM.

## 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>2</sup> The applicant retired on October 31, 1979. The preponderance of the evidence shows that the applicant knew of the alleged error in his record in 1979, and his application is therefore untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>3</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>4</sup> to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that "the

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

<sup>3</sup> 10 U.S.C. § 1552(b).

<sup>4</sup> *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.”<sup>5</sup>

4. Regarding the delay of his application, the applicant argued that the Board should consider his application because he has helped many retired Coast Guard members request and receive awards after he “had gone through three attempts to receive such awards” himself. The Board finds that the applicant’s explanation for his very long delay is not compelling because he failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.

5. A cursory review of the potential merits of this case indicates that the applicant’s claim cannot prevail. Although the applicant provided evidence of his dedicated and exemplary performance, particularly in reference to his work on various engineering projects, he presented no evidence supporting his claim that the lack of a CGAM is due to prejudice against “mustang officers” on the part of his CO. And both the CO and the applicant’s DD 214 are accorded a presumption of regularity,<sup>6</sup> which the applicant has not overcome. The applicant’s military record is not clearly erroneous or unjust because he did not receive a CGAM for the period 1968 to 1973.

6. Accordingly, 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)**

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<sup>5</sup> *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

<sup>6</sup> 33 C.F.R. § 52.24(b); *see Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties “correctly, lawfully, and in good faith.”).

**ORDER**

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

November 9, 2017

