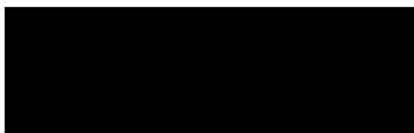


**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2017-187**



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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 January 14, 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 January 12, 2018, 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 boatswain's mate third class (BM3/E-4) who served in the Coast Guard Reserve from September 23, 1959, to September 22, 1967, asked the Board to correct his record to show that he was awarded a Reserve Good Conduct Medal (RGCM). He alleged that he is eligible to receive a RGCM for serving in the Reserve from September 23, 1964, through September 22, 1967.

Regarding the delay in submitting his application to the Board, the applicant stated that he did not discover the alleged error until April 10, 2017. He argued that the Board should find it in the interest of justice to consider his application because he wants to wear the ribbon on his Honor Guard Uniform for the Washington Crossing National Cemetery and stated that all Honor Guards are required to wear all authorized military service ribbons.

**SUMMARY OF THE RECORD**

On September 23, 1959, the applicant enlisted in the Coast Guard Reserve and the DD 214 in his military records shows that he served on active duty for training from October 7, 1959, to March 31, 1960 (5 months and 25 days). Following his active duty for training he continued to serve in the Reserve and completed his eight-year military service obligation on September 22, 1967. As a reservist, he drilled for pay and retirement points in the Selected Reserve. Initially, his training status was categorized as "RJ" because he was in the Selected

Reserve and had not yet completed his statutory military service obligation.

In November 1965, the applicant requested a transfer from the Selected Reserve to the Active Status Pool based on his completion of six years of satisfactory service. Reservists assigned to the Active Status Pool are not required to perform any training duty but may be called up in a time of war or national emergency. His command approved his request, noting that the applicant had recently completed his annual active duty training and had “accumulated 5 absences during his current anniversary year.”

The applicant’s annual Retirement Points Statements, ending on September 22 each year, show that he performed inactive duty training (IDT/drills) and annual duty for training (ADT) in each anniversary year (AY) as follows:

AY End Date	IDT Drill Points	Correspondence Courses	Membership	Active Duty Training	Unadjusted Total Points
9/22/1960	20		15	175	210
9/22/1961	41	24	15	14	94
9/22/1962	34	14	15	13	76
9/22/1963	39		15	14	68
9/22/1964	43		15	0	58
9/22/1965	38		15	14	67
9/22/1966	4		15	0	19
9/22/1967	0		15	0	15

While in the Reserve, the applicant received semiannual performance evaluations. All of his conduct marks were perfect marks of 4.0 and his proficiency and leadership marks were all 3.2 or higher.

### APPLICABLE LAW AND REGULATIONS

Chapter 9.A. of the Medals and Awards Manual, COMDTINST M1650.25B, states that the RGCM “provides reservists an incentive to exceed the minimum standards of participation.” From February 1963 through December 1979, to receive an RGCM, a reservist had to complete four consecutive years of service with no court-martial, no non-judicial punishment, no misconduct, and no civil conviction for an offense involving moral turpitude, as well as minimum average marks of at least 3.0 for proficiency, leadership, and conduct. Creditable service must have been accrued while serving in the Coast Guard Reserve and the member must have completed at least 12 days of annual training (ADT) in each of the four consecutive years and performed 90% of 48 scheduled IDT drills (90% = 43).<sup>[1]</sup> The 90% of drills was calculated “exclusive of drills scheduled while the reservist was performing active duty or active duty for training.”<sup>2</sup>

<sup>1</sup> Reservists received one point for each 4-hour drill performed and could earn no more than 4 drill points during each monthly drill weekend. Therefore, reservists who attended every scheduled drill received 48 IDT drill points per year.

<sup>2</sup> For example, if a reservist was performing active duty or ADT when a drill weekend (4 drills) was scheduled, the reservist needed to have completed at least 90% of the remaining 44 drills scheduled per year (90% of 44 = 40).

### VIEWS OF THE COAST GUARD

On November 3, 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 untimely because the applicant was discharged more than 49 years ago and did not provide any justification for the untimeliness of his application for relief.

Regarding the merits, PSC argued that relief should be denied because the applicant does not meet the eligibility requirements for the RGCM as set forth in the Coast Guard Medals and Awards Manual. PSC stated that per the manual, the applicant was required to have completed at least 12 days of ADT and 43 days of scheduled IDT drills each year for four consecutive years to qualify for the RGCM, but his retirement points statements show that he did not meet the minimum ADT and IDT drill requirements.

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

On November 13, 2017, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The Board 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.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.<sup>3</sup> The applicant was discharged from the Reserve on September 22, 1967, but did not submit his application to the Board until 2017. There is no credible evidence that he was unaware of the existence of the RGCM when he was a member of the Coast Guard Reserve. Therefore, the Board finds that 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>4</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>5</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>6</sup>

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<sup>3</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

<sup>4</sup> 10 U.S.C. § 1552(b).

<sup>5</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

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

4. The applicant did not provide any justification for his delay in seeking the RGCM, and the Board's cursory review of the merits of his request indicates that it cannot prevail. Although there is no documentation of misconduct in his record and his performance marks were good enough to meet the requirements for an RGCM, the eligibility criteria for the ribbon also required four consecutive years of service in which the reservist performed at least 90% of the 48 scheduled drills, which is 43 drills, or if a drill weekend passed while he was performing active duty or ADT, 90% of the remaining drills. The applicant's points statements show that he fulfilled these requirements in his first anniversary year, which ended on September 22, 1960. And he may have fulfilled the requirements in his second anniversary, which ended on September 22, 1961, if his ADT encompassed a drill weekend, because his 41 drills would have been more than 90% of the remaining 44 weekend drills. But although the applicant continued to serve fairly regularly, his points statements show that he did not meet the strict requirements for the RGCM in his remaining years of service and so did not meet the criteria for four consecutive years as required for an RGCM.<sup>7</sup> His points statements are presumptively correct,<sup>8</sup> and the applicant has not submitted evidence to rebut them. Based on the record before it, the Board finds that the applicant's claim cannot prevail on the merits.

5. 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>7</sup> As Chapter 9.A. of the Medals and Awards Manual notes, the performance requirements for an RGCM were set high to encourage reservists to exceed the minimum standard for satisfactory participation.

<sup>8</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 former SA [REDACTED], USCGR, for correction of his military record is denied.

January 12, 2018

