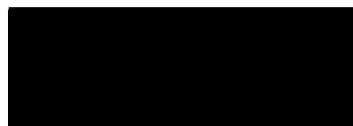


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-189



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 June 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 March 7, 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 is a retired [REDACTED] who served on active duty in the Coast Guard from June 4, 1968 to June 30, 1990. He asked the Board to correct his Coast Guard discharge form DD 214¹ to include all medals and awards for his service in Vietnam while assigned to the CGC Sherman from December 1, 1969, to July 10, 1971. He stated that although he did receive some awards for his Vietnam service, there were additional medals or awards given to the crew of the CGC Sherman that were not included on his DD 214. The applicant stated that the missing medals or awards were for the CGC Sherman's deployment in Vietnam in 1970. He did not name the medals or awards that he believes are missing from his record.

The applicant stated that he discovered the error in his record on May 15, 2016, and argued that the Board should find it in the interest of justice to consider his application because he was previously unaware that the CGC Sherman had received additional awards.

SUMMARY OF THE RECORD

The applicant received his commission as an ensign in 1968. From December 1, 1969, to July 10, 1971, he was assigned to the CGC Sherman, a 378-foot cutter with a 15-foot draft. The applicant retired from the Coast Guard on June 30, 1990, after serving more than 22 years on

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

active duty. The DD 214 that he received upon retirement shows that he had received the following medals and awards:

- CG Commendation Medal;
- CG Achievement Medal;
- Navy Achievement Medal w/combat “V” device (The applicant received this award for his service aboard the CGC Sherman in 1970);
- Combat Action Ribbon (The applicant received this award because the CGC Sherman came under enemy fire on November 21, 1970);
- CG Bicentennial Unit Commendation;
- CG Meritorious Unit Commendation;
- Navy Meritorious Unit Commendation w/one bronze star (The star denotes a second award. The applicant received both for his service aboard the CGC Sherman in Vietnam in 1970.);
- National Defense Service Medal;
- Vietnam Service Medal;
- CG Sea Service Ribbon;
- Republic of Vietnam Campaign Medal;
- Republic of Vietnam Armed Forces Meritorious Unit Citation (Gallantry Cross);
- CG Rifleman Marksmanship Ribbon (Sharpshooter); and
- CG Expert Pistol.

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4C, 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 (2) states that the crew of the CGC Sherman is entitled to wear the Combat Action Ribbon because CGC Sherman came under hostile fire on November 21, 1970. Enclosure (8) to the manual shows that the crew received the Navy Meritorious Unit Commendation for service in Vietnam from May 15 to December 8, 1970.

Enclosure (16) shows that the crew received the Vietnam Service Medal for the period May 7 to December 18, 1970. Enclosure (16) also shows that the Republic of Vietnam issued the following awards that the applicant is entitled to wear:

- The Vietnam Campaign Medal was issued to members who met certain criteria from March 1, 1961, to March 28, 1973, including those who “[s]erved six (6) months in South Vietnam or served six (6) months outside the geographical limits of South Vietnam, but contributed direct combat support to the Republic of Vietnam Armed Forces during such

period.”

- The Gallantry Cross Unit Citation was issued to Naval Forces Vietnam and all subordinate units for the period February 8, 1962, through March 28, 1973.
- The “Civil Actions Medal First Class Color with Palm” was issued to Naval Forces Vietnam and all subordinate units from 01 January 1965 to 28 March 1973.

Paragraph 721.4 of the Navy’s manual, SECNAVINST 1650.1H provides more information about the latter two awards:

4. Republic of Vietnam Meritorious Unit Citation

a. Authorization. Awarded by the Chief of the Joint General Staff, Republic of Vietnam Armed Forces in two colors: Gallantry Cross Color with Palm and Frame (8 February 1962 to 28 March 1973) and Civil Actions First Class Color with Palm and Frame (1 January 1965 to 28 March 1973). SECNAV has specifically authorized certain units of the Naval service to accept and wear these awards. Such authorization is required in all cases for participation.

b. Eligibility Requirements. The ribbon bar with palm and frame are authorized for wear by personnel who served with certain cited units in Southeast Asia during the approved periods. Lists of eligible units are maintained by CNO and CMC.

c. In addition to those specific ships/units cited, all Navy and Marine Corps personnel who served “in country” Vietnam during the eligibility periods are eligible for both awards.

VIEWS OF THE COAST GUARD

On December 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 1990 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 for additional medals and that his DD 214 lists all of the awards that he was eligible to receive and that they are in alignment with the Military Medals and Awards Manual. PSC noted that all of the awards earned by the applicant on the CGC Sherman in 1970 are already accounted for on his DD 214.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On December 29, 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.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.² The applicant received his DD 214 when he retired from the Coast Guard in 1990, but he alleged that he discovered on May 15, 2016, that the crew of the CGC Sherman is entitled to additional medals for that cutter's service in Vietnam in 1970. The Board finds, however, that as a member of the Coast Guard who served continuously on active duty until his retirement in 1990, the applicant would have known at the time of his retirement what medals he was entitled to wear as a result of his service on the CGC Sherman. Therefore, the Board finds that the application is not timely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.³ 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"⁴ 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."⁵
4. The applicant did not justify his delay in seeking additional medals for his service aboard the CGC Sherman in 1970. Nor did he name the additional medals and awards that he alleges he is entitled to wear. His record shows that he has already received seven medals and awards for this service: the Navy Achievement Medal w/combat "V" device; the Combat Action Ribbon; two Navy Meritorious Unit Commendations; the Vietnam Service Medal; the Republic of Vietnam Campaign Medal; and the Republic of Vietnam Armed Forces Meritorious Unit Citation (Gallantry Cross). The Coast Guard stated that the applicant is not entitled to any other awards for his service aboard the CGC Sherman, and the applicant did not respond.
5. Enclosure (16) of the Coast Guard Medals and Awards Manual indicates that members assigned to Naval Forces Vietnam and their subordinate units in 1970 were eligible for the Republic of Vietnam Civil Actions Medal First Class Color with Palm, in addition to those medals and awards that the applicant received. But the Navy manual, SECNAVINST 1650.1H, explains that the Meritorious Unit Citation issued by the Republic of Vietnam came in "two colors." One "color" was the Gallantry Cross Color, which the applicant received, and the other was the Civil Actions First Class Color, which he did not receive. The Navy manual states that these awards were "authorized for wear by personnel who served with certain cited units in

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

³ 10 U.S.C. § 1552(b).

⁴ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

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

Southeast Asia during the approved period.” It also states, “In addition to those specific ships/units cited, all Navy and Marine Corps personnel who served ‘in country’ Vietnam during the eligibility periods are eligible for both awards.” Whether the CGC Sherman’s operations in the South China Sea were considered “in country” is not clear. As a 378-foot cutter with a 15-foot draft, the CGC Sherman would not have regularly operated very close to Vietnam’s shore. Nor is it clear whether every Coast Guard member who served with the Naval Forces in Southeast Asia in 1970 is entitled to both medals. Therefore and because the applicant’s DD 214 is presumptively correct,⁶ the Board finds that his 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)

⁶ 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 [REDACTED], USCG (Retired), for correction of his Coast Guard military record is denied.

March 7, 2018

