

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-014



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 October 11, 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 May 18, 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, who was released from active duty on April 6, 1983, asked the Board to correct his discharge form DD 214¹ documenting his enlisted service to show that he received the following medals and awards:

- M-16 Qualification Ribbon
- .45 Caliber Pistol Qualification Ribbon
- Humanitarian Service Medal (Cuban Sea Lift)
- Antarctic Service Medal
- U.S. Navy Commendation Ribbon

The applicant alleged that he earned the M-16 and .45 Caliber qualification ribbons during recruit training and earned the Humanitarian Service and Navy Commendation Medals while stationed in San Diego, California. He also alleged that he earned the Antarctic Service Medal during Operation Deep Freeze 79 aboard the USCGC Glacier.

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 errors in his record on April 30, 2017, and argued that the Board should find it in the interest of justice to consider his application because “it is simply a matter of correcting/updating my DD 214 with the correct information.” He did not state why he did not discover the error upon his release from active duty in 1983 or why he did not apply to the Board sooner.

SUMMARY OF THE RECORD

The applicant’s record shows that he enlisted in the Coast Guard on March 7, 1978, and incurred a six-year military service obligation through March 6, 1984. His record contains an administrative remarks (Page 7) dated May 3, 1978, which states that he had satisfactorily completed recruit training and that during training he had completed 16 hours of small arms training. The Page 7 shows that “DNF”² was written as his score on both weapons, and the places that would be initialed if he had qualified as an expert, sharpshooter, or marksman on either the M-16 rifle or the .45 caliber pistol are blank.

The applicant served aboard the USCGC Glacier, a 309-foot icebreaker, from December 31, 1978, to December 31, 1979. His record also contains a letter from the Secretary of the Navy to the USCGC Glacier stating that the cutter was receiving the Meritorious Unit Commendation for its service during Operation Deep Freeze 79 from December 12, 1978, to March 4, 1979. The backside of the letter contains a crew list and the applicant’s name is on the list. His record also contains an October 5, 1978, Letter of Commendation (LOC) and crew list from the Commandant to the USCGC Glacier commending the crew for their performance of duty from July 4, 1978, through August 14, 1978. The applicant’s name is included on the crew list. The applicant’s record also contains a Page 7 stating that effective January 28, 1979, he is authorized to wear the Antarctic Service Medal. In addition, a letter from the Commanding Officer, USCGC Glacier, to the Commander, Naval Support Forces Antarctica dated April 6, 1979, states that the Glacier participated in Operation Deep Freeze 79 from November 15, 1978, to April 6, 1979.

From January 1980 to August 1981, the applicant served at Air Station San Diego. His record contains an Endorsement on Orders effective September 14, 1980, which shows that he was temporarily assigned to Coast Guard Group Key West to participate in the Cuban Refugee Augmentation Force. Another Endorsement on Orders shows that the applicant returned to the air station on October 3, 1980.

The applicant signed his DD 214 on April 6, 1983. It shows that he was released from active duty into the Reserve to complete the remainder of his six-year service obligation after having served more than five years of service, including more than a year of sea service. Block 13 of the DD 214 shows that he received a Coast Guard Good Conduct Medal for the three-year period ending March 6, 1981, and a Coast Guard Meritorious Unit Commendation for his service aboard the Glacier from December 12, 1978, through March 4, 1979.

² The Page 7 contains five blocks in which a member’s score on the rifle and pistol qualification course are graded. The five blocks are Expert; Sharpshooter; Marksman; Unqual; and DNF. The Board cannot determine precisely what the acronym “DNF” means, but it likely means “did not fire” or “did not finish.”

APPLICABLE LAW AND REGULATIONS

The Commandant's instructions for completing the DD 214, COMDTINST 1900.4B, issued in 1979, 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 for all periods of service."

Chapter 2.A.15. of COMDTINST M1650.25E, the Coast Guard Medals and Awards Manual, states that the Commandant's Letter of Commendation was authorized by the Commandant on March 17, 1979, and could be awarded to any individual member for an act or service resulting in unusual and/or outstanding achievement. It was not made retroactive.

Under Chapter 3.B. of the Medals and Awards Manual, members may be entitled to wear various medals awarded to their units, including in order of precedence from high to low, a Coast Guard Unit Commendation Medal, Navy Unit Commendation Medal, Coast Guard Meritorious Unit Commendation Medal, and Navy Meritorious Unit Commendation Medal. The units that received these medals and the periods for which they received them are listed in Enclosures 5, 6, 7, and 8 to the manual, respectively. For the period in which the applicant served aboard the Glacier from December 31, 1978, to December 31, 1979, the Glacier is not listed in Enclosures 5, 6, or 7, but is listed in Enclosure 8 as receiving the Navy Meritorious Unit Commendation Medal for the period December 12, 1978, through March 4, 1979.

Chapter 5.A.5. of the Medals and Awards Manual states that the Antarctica Service Medal may be awarded to any person who served aboard a ship for at least 30 days in the Antarctic after January 1, 1946, or awarded to vessels upon completion of an eligible vessel deployment. Enclosure 13 to the Manual states that the CGC Glacier is eligible for the medal for its service in the Antarctic for numerous periods, including December 24, 1978, to February 21, 1979.

Chapter 5.A.16. of the Medals and Awards Manual states that the Humanitarian Service Medal (HSM) may be awarded to military personnel who distinguish themselves by meritorious, direct, non-routine participation in a significant military act of operation of a humanitarian nature. This includes evacuation of personnel from an area threatened by a hostile force or the support of resettlement of refugees or evacuees. The service rendered must be "above and beyond normal duties" and meet other criteria. Enclosure 17 to the Manual states that the medal was authorized for members who participated in the Cuban Refugee Relief Operation from April 21, 1980, through September 28, 1980.

Chapter 5.A.19. of the Medals and Awards Manual states that the Coast Guard Sea Service Ribbon is awarded to active and inactive duty members of the Coast Guard and Coast Guard Reserve or non-Coast Guard personnel who, under temporary or permanent assignment, satisfactorily complete a minimum of 12 months cumulative sea duty. For the purposes of the award, sea duty is defined as duty performed aboard any commissioned Coast Guard cutter 65 feet or more in length. This award was authorized on March 3, 1984, and was not made retroactive. But the Medals and Awards Manual at the time was amended to state that commanding officers could "authorize and issue this award to unit personnel" and make appropriate service record entries.

Enclosure 8 to the Medals and Awards Manual lists the units and periods eligible for the Navy Meritorious Unit Commendation Medal (which is a lesser award than the Navy Unit Commendation Medal). The CGC Glacier is listed as eligible for this medal for several periods, including December 12, 1978, to March 4, 1979.

VIEWS OF THE COAST GUARD

On March 29, 2018, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant partial relief, in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC argued that partial relief should be granted because the applicant's record shows that he is eligible to receive several medals that are not currently listed on his DD 214. However, PSC argued that his DD 214 should not be corrected to show that he qualified with the M-16 or .45 caliber pistol, because his record shows that on May 3, 1978, he received a score of DNF for the M-16 rifle and the .45 caliber pistol. With regards to the other medals and awards, PSC stated that the applicant's DD 214 should be corrected to show that he earned the following:

- Humanitarian Service Medal
- Antarctic Service Medal
- Letter of Commendation
- Navy Meritorious Unit Commendation
- Sea Service Ribbon

PSC argued that these awards coincide with timeframes listed in the Coast Guard Medals and Awards Manual and should be added to Block 13 of the applicant's DD 214.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 12, 2018, 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 214 and presumably knew of its contents in 1983. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged errors in his record no later than 1983 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.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

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. However, because the Coast Guard has identified some medals and awards that are missing from the applicant’s DD 214, the Board finds that it is in the interest of justice to waive the statute of limitations in this case.

4. The applicant alleged that his DD 214 is erroneous and unjust because it fails to show his weapon qualifications and several medals and awards he received. 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.⁶ 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.”⁷

5. The applicant asked the Board to correct his DD 214 to show that he qualified with the M-16 rifle and .45 caliber pistol during recruit training. This request should be denied, because his record contains a Page 7 dated May 3, 1978, which shows that he received a score of DNF for the M-16 rifle and the .45 caliber pistol. The Page 7 in his record is presumptively correct,⁸ and there is no evidence showing that the applicant qualified with the M-16 or .45 caliber pistol after May 3, 1978.

6. The applicant asked the Board to correct his DD 214 to show that he received the Humanitarian Service Medal. The JAG recommended that he receive the medal and the Board agrees that although there is no documentation showing that he was awarded his medal, his orders show that he participated in the Cuban Refugee Augmentation Force. Endorsements on Orders in his record show that he served on temporary duty at Group Key West from September 14 to October 3, 1980, to participate in the Cuban Refugee Augmentation Force, and Enclosure

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).

⁶ 33 C.F.R. § 52.24(b).

⁷ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁸ 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.”)

17 to the Medals and Awards Manual states that the Humanitarian Service Medal was authorized for members who participated in the Cuban Refugee Relief Operation from April 21, 1980, through September 28, 1980. Accordingly, although the applicant served at Group Key West for just 14 days during the eligibility period, the Board finds that his DD 214 should be corrected to show that he earned the Humanitarian Service Medal.

7. The applicant asked the Board to correct his DD 214 to show that he received a Navy Commendation Ribbon. The Coast Guard, however, recommended that the Board correct his DD 214 to show that he received a Navy Meritorious Unit Commendation instead and did not address his request for the Navy Commendation Ribbon. Enclosure 6 to the Medals and Awards manual lists the Coast Guard units and vessels eligible to receive the Navy Commendation Ribbon but the CGC Glacier is not listed. Accordingly, the applicant has failed to prove by a preponderance of the evidence that he is eligible to receive the Navy Commendation Ribbon.

8. The Coast Guard stated that the applicant's DD 214 should be corrected to show that he received the Navy Meritorious Unit Commendation Medal because the CGC Glacier is listed in Enclosure 8 to the Medals and Awards Manual as receiving this medal for the period December 12, 1989, through March 4, 1979, when the applicant was a member of the crew during Operation Deep Freeze 79. While this is true, the applicant's DD 214 shows that he received a Coast Guard Meritorious Unit Commendation Medal, instead of the Navy medal, for this same period, and dual awards for the same actions and period of service are generally prohibited by Chapter 1.B.10. of the manual. Enclosure 7 to the manual, which lists the units entitled to the Coast Guard Meritorious Unit Commendation Medal, shows that the crew of the CGC Glacier did *not* receive a Coast Guard Meritorious Unit Commendation Medal for the same period for which they received the Navy Meritorious Unit Commendation Medal. And other than the DD 214, there is no evidence in the record showing that the crew received a Coast Guard Meritorious Unit Commendation Medal for Operation Deep Freeze 79. The Board finds that Enclosures 7 and 8 to the Medals and Awards Manual and the preponderance of the evidence show that the crew of the CGC Glacier received a Navy Meritorious Unit Commendation Medal, instead of a Coast Guard Meritorious Unit Commendation Medal, for their service during Operation Deep Freeze 79 from December 12, 1989, through March 4, 1979. Therefore, the entry "CG Meritorious Unit Commendation for period 78DEC12 – 79MAR04" is erroneous and should be corrected to state that he received a Navy Meritorious Unit Commendation Medal for that period instead.

9. The JAG recommended that the applicant's record be corrected to show that he received a Sea Service Ribbon. The Board agrees. The ribbon was first authorized on March 3, 1984, and was not made retroactive, but the applicant was still a member of the Reserve on March 3, 1984. When he enlisted on March 7, 1978, he incurred a six-year military service obligation through March 6, 1984, and when he left active duty on April 6, 1983, he was released into the Reserve to complete that obligation. Chapter 5.B.21. of the old Medals and Awards Manual shows that commanding officers were authorized to award the Sea Service Ribbon to their subordinates who had already completed a year of sea service. Had the applicant's Reserve command acted promptly, the ribbon would have been entered in his record because he had served aboard the CGC Glacier, a 309-foot icebreaker, for more than a year and so met the criteria for the ribbon.

10. The applicant did not ask the Board to add a Letter of Commendation to his DD 214, but the JAG recommended that his October 5, 1978, Letter of Commendation be added. The Board disagrees. The Letter of Commendation in the applicant's record is addressed to the crew of the USCGC Glacier from the Commandant, but Chapter 2.A.15. of the Medals and Awards Manual states that the Commandant's Letter of Commendation was not authorized until March 17, 1979, and it was not made retroactive. Moreover, in the Medals and Awards Manual, the Commandant's Letter of Commendation is listed only as a personal award, not a unit award, and the sample text provided in the manual also shows that the ribbon is supposed to be awarded to a specific member, not the entire crew of a boat. The letter in the applicant's record, however, is addressed to the entire crew of the Glacier and it does not state that each member is authorized to wear a ribbon. Accordingly, the Board finds that the Letter of Commendation in the applicant's record is not the same as the Commandant's Letter of Commendation identified in the Medals and Awards Manual and so it should not be added to his DD 214.

11. The applicant's request to have the M-16 and .45 Caliber Pistol Qualification Ribbons and the Navy Commendation Ribbon added to his DD 214 should be denied, but the Coast Guard should correct his DD 214 to show that he earned the Humanitarian Service Medal, the Antarctic Service Medal, and the Sea Service Ribbon, and to show that he received the Navy Meritorious Unit Commendation, instead of the Coast Guard Meritorious Unit Commendation.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former [REDACTED], USCG, for correction of his military record is granted in part as follows:

The Coast Guard shall correct his DD 214 to show that he received a Navy Meritorious Unit Commendation Medal, instead of a Coast Guard Meritorious Unit Commendation Medal, for the period December 12, 1978, through March 4, 1979, and by adding the following medals and awards:

- Humanitarian Service Medal
- Antarctic Service Medal
- Sea Service Ribbon

No other relief is granted.

May 18, 2018

