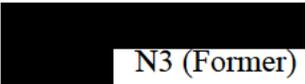


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-021

 N3 (Former)

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 November 3, 2017, and assigned it to staff member  to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 28, 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 served on active duty in the Coast Guard from July 11, 1966, to June 30, 1970. He asked the Board to correct his Coast Guard discharge form DD 214¹ to include the Combat Action Commemorative Medal² which he alleged he is eligible to receive for his participation as "Boots on the Ground" during Project Combat Aid in the Republic of Vietnam from June 17, 1969, to August 15, 1969. He stated that he was a truck driver in Vietnam from June 10, 1969, to May 8, 1970, and that his convoy was attacked by the enemy ten to twelve times in his nearly twenty trips over the Hai Van Pass.

In support of his application, the applicant submitted a copy of a letter from Commander, Eleventh Coast Guard District, dated January 28, 1971, which states that the applicant received a Coast Guard Unit Commendation for his participation in Project Combat Aid from June 17, 1969, through August 15, 1969. He also submitted a copy of the award citation for the Unit Commendation which states that his unit was involved in the construction, organization, and pre-operational testing of the Loran-C Transmitting Station in the Republic of Vietnam and that Coast Guard and Air Force personnel conducted the work "hampered by weather, unfavorable

¹ A DD 214 is prepared to document a member's release or discharge from a period of active duty and a DD 215 is used to correct or add information to a DD 214.

² The Coast Guard Military Medals and Awards Manual lists a Combat Action Ribbon, but not a Combat Action Commemorative Medal. COMDTINST M1650.25E

living conditions, missing essential equipment, inadequate design of some components and numerous other difficulties associated with a combat environment.” The applicant also submitted copies of his DD 214 and DD 215; Honorable Discharge certificate; Armed Forces identification cards; and photos of the truck he drove in Vietnam.

The applicant stated that he discovered the error in his record on September 23, 2017, and argued that the Board should find it in the interest of justice to consider his application because he was previously unaware that he was supposed to receive the Combat Action Commemorative Medal.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on July 11, 1966, and was honorably discharged on June 30, 1970. The DD 214 that he received upon separation and the DD 215 that was issued on August 16, 2013, show that he had received the following medals and awards:

- Vietnam Service Medal with one bronze star;
- National Defense Service Medal;
- Vietnam Campaign Medal with device (1960);
- Coast Guard Unit Commendation;
- Coast Guard Sea Service Ribbon;
- Coast Guard Restricted Duty Ribbon;
- Republic of Vietnam Meritorious Unit Citation (Gallantry Cross Medal Color); and
- Republic of Vietnam Meritorious Unit Citation Civil Actions Medal First Class Color.

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4C 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.”

Chapter 1.B.10. of COMDTINST M1650.25E, the Coast Guard Military Medals and Awards Manual, states, “Only one personal award will be given for the same act, achievement, or period of meritorious service for any individual, unit or Military Service.”

Chapter 2.A.16. of the manual states that the Coast Guard Combat Action Ribbon (CAR) was authorized by the Commandant on July 16, 2008, and may be awarded retroactively only to May 1, 1975, “which is the earliest date for which a Navy Combat Action Ribbon, Air Force Combat Action Medal, or Army Combat Infantry/Medical/Action badge may be converted to a Coast Guard Combat Action Ribbon.” The ribbon is awarded to members “who have actively participated in ground or maritime combat. The principal eligibility criterion is satisfactory performance under enemy fire while actively participating in a ground or maritime engagement.

Neither service in a combat area nor being awarded the Purple Heart, or a combat award or badge from another Service, automatically makes a service member eligible for the Coast Guard Combat Action Ribbon.” Enclosure (2) of the Medals and Awards manual lists the Coast Guard operations for which a Combat Action Ribbon has been authorized. The list includes World War II from December 7, 1941, to April 14, 1946; the Korean War from June 25, 1950, through July 27, 1954; and “Southeast Asia” from March 1, 1961 to August 15, 1973. Project Combat Aid is not expressly listed.

SECNAVINST 1650.1H states that the Combat Action Ribbon was authorized on February 17, 1969, and could be awarded to Coast Guard personnel assigned to units that were operating under the control of the Navy. Enclosure (5) states that the operations for which the ribbon was awarded include operations in Southeast Asia from March 1, 1961, to August 15, 1973. Chapter 2, paragraph 230.14.b. provides the following eligibility requirements:

(1) Awarded to members of the Navy, Marine Corps, and Coast Guard (when the Coast Guard, or units thereof, operate under the control of the Navy) in the grade of captain/colonel and junior thereto, who have actively participated in ground or surface combat.

(2) The principal eligibility criterion is, regardless of military occupational specialty or rating, the individual must have rendered satisfactory performance under enemy fire while actively participating in a ground or surface engagement. Neither service in a combat area nor being awarded the Purple Heart Medal automatically makes a service member eligible for the Combat Action Ribbon (CR). The following amplifying guidance is provided:

(a) Direct exposure to the detonation of an Improvised Explosive Device (IED) used by an enemy, with or without the immediate presence of enemy forces, constitutes active participation in a ground or surface engagement. Eligibility under this criterion is retroactive to 7 October 2001.

The Air Force Combat Action Medal was authorized on March 15, 2007, and may be awarded retroactively to personnel meeting the criteria since September 11, 2001.

The Army Combat Action Badge was authorized on May 2, 2005, and may be awarded retroactively to personnel meeting the criteria since September 18, 2001.

Chapter 3.B.3. of the Coast Guard Military Medals and Awards Manual states that the Coast Guard Unit Commendation may be awarded to any unit that has distinguished itself by valorous or extremely meritorious service not involving combat but in support of Coast Guard operations. Enclosure (5) lists the units, operations, and periods for which this medal has been awarded, and Project Combat Aid is on the list for the period June 17 through August 15, 1969.

VIEWS OF THE COAST GUARD

On April 11, 2018, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended 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 1970 and he did not provide sufficient justification for the extreme untimeliness of his application. Regarding the merits of the case, the JAG attorney argued that the applicant is not eligible

for the Coast Guard Combat Action Ribbon because his actions during Project Combat Aid took place in 1969 but the Medals and Awards Manual states that the Coast Guard CAR is only retroactive to May 1, 1975. The JAG attorney further argued that it is unlikely that the applicant's role in Project Combat Aid would qualify for the CAR because the applicant received a Coast Guard Unit Commendation for his service on the project and the Medals and Awards Manual specifically states that the medal is for service not involving combat. The JAG noted that serving or being wounded in a combat area does not automatically qualify a member for the CAR.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 30, 2018, 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.³ The applicant alleged that he discovered the error in 2017, but he was discharged from the Coast Guard in 1970, after the Navy had authorized the Combat Action Ribbon for its personnel participating in combat in Southeast Asia. He presumably knew at the time that he had not received a combat award for his participation in Project Combat Aid. Therefore, the preponderance of the evidence shows that his request is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.⁴ 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”⁵ 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.”⁶
4. The applicant did not justify his delay in seeking a combat award, and the Board's cursory review of the merits of this case indicates that his claim cannot prevail. Only the Navy and Marine Corps had authorized Combat Actions Ribbons during the period that the applicant was serving in Vietnam. The Army, Air Force, and Coast Guard did not authorize “Combat Action” awards until a little over a decade ago, and they were not made retroactive to the 1960s. According to SECNAVINST 1650.1H, a Coast Guard member could be eligible for a Combat

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

⁴ 10 U.S.C. § 1552(b).

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

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

Action Ribbon for service in Vietnam in the 1960s only if he was serving under the control of the Navy. The applicant served in Vietnam from June 17 to August 15, 1969, and received a Coast Guard Unit Commendation Ribbon for his participation in Project Combat Aid. The citation for this award states that the work was “hampered by weather, unfavorable living conditions, missing essential equipment, inadequate design of some components and numerous other difficulties associated with a combat environment” but also states that Project Combat Aid was a joint project of the Coast Guard and the Air Force. The citation does not mention the Navy. Although the applicant clearly served in Vietnam in a combat zone, he has not shown that the Air Force and Coast Guard members who participated in Project Combat Aid were authorized by the Navy to wear a Combat Action Ribbon. Given that only the Navy and Marine Corps had authorized the Combat Action Ribbon for the period that the applicant served in Vietnam and he was assigned to a joint Coast Guard and Air Force project, the Board finds that his request for a Combat Action Ribbon cannot prevail.⁷

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)

⁷ 33 C.F.R. § 52.24(b).

ORDER

The application of former EN3 [REDACTED], USCG, for correction of his Coast Guard military record is denied.

September 28, 2018

