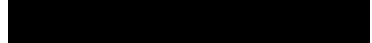



**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-147


SS3 (former)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the applicant's completed application on May 15, 2018, 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 April 19, 2019, 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 subsistence specialist third class (SS3) who served on active duty in the Coast Guard from October 1991 to September 1995, asked the Board to correct his discharge form DD 214¹ to show that he received the Coast Guard Meritorious Team Commendation and the Armed Forces Service Medal. He argued that he is eligible for the medals because he served aboard the CGC Dallas during a deployment to the Mediterranean and Black Sea during Operation Deny Flight while attached to the USS Theodore Roosevelt Battle Group and the crew of the Dallas was awarded the two medals.

To support his allegations, the applicant submitted a copy of a personal Letter of Appreciation dated August 21, 1995, from the Commanding Officer (CO) of the CGC Dallas. The letter notes that the applicant was commended for his performance of duty while "working many long and hard hours preparing DALLAS for receptions in Turkey, Romania, Bulgaria, Tunisia, Slovenia and Italy" from May 22 to August 20, 1995.

The applicant also submitted a citation for an August 27, 1995, award of the Coast Guard Meritorious Team Commendation that the "Subsistence Specialists Team" received from the CO of the Dallas for their service in preparing numerous specials meals and receptions for foreign dignitaries aboard the cutter from Turkey, Romania, Bulgaria, Tunisia, Slovenia, Italy, and

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

Albania during an historic deployment from May to August 1995 to the Mediterranean and Black Seas in support of the U.S. Sixth Fleet. The subsistence specialists had “constantly changing timelines” and adjusted for “flight operations, replenishment at sea, official port visits, and special exercises with foreign military and law enforcement agencies.” The receptions “introduced the U.S. Coast Guard to foreign naval services and set the tone for the professional Military-to-Military training that followed.”

Regarding the Armed Forces Service Medal, the applicant submitted a copy of a Wikipedia entry for the CGC Dallas which states the following:²

During the summer of 1995, Dallas operated with the United States Sixth Fleet in the Mediterranean Sea. Among her many assignments, Dallas worked with the USS Theodore Roosevelt Battle Group in support of Operation Deny Flight off the coast of Yugoslavia. Dallas's crew conducted nation-building training and professional exchange in various countries in the Mediterranean, the Adriatic Sea, and the Black Sea. Dallas worked with the navies, coast guards, and maritime agencies of Turkey, Romania, Bulgaria, Tunisia, Slovenia, Albania, and Italy. This marked the first time that a U.S. Coast Guard cutter operated with the U.S. Sixth Fleet and also entered the Black Sea. Dallas earned the Armed Forces Service Medal for her contributions to Operations Deny Flight, Maritime Monitor, and Sharp Guard.

The applicant was discharged in 1995 and stated that he discovered the alleged errors in his record on June 7, 2017, but did not state why the Board should find it in the interest of justice to consider his application and award him the medals.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on October 29, 1991. After completing recruit training, he attended Rescue Swimmer School followed by Subsistence Specialist “A” School. He served aboard the cutters [REDACTED] and was assigned to the 378’ CGC Dallas during its deployment to Mediterranean and Black Seas in support of the U.S. Sixth Fleet from May 1995 to August 1995. For this deployment, the Dallas and its crew received the Coast Guard Meritorious Team Commendation.

The applicant’s DD 214 shows that he was honorably discharged on September 28, 1995. It also credits him with a total of three years, five months, and three days of sea service and shows that he received the following awards and medals during his enlistment:

1. DOT Gold Medal Ribbon with Gold Frame
2. Coast Guard Unit Commendation
3. Coast Guard Meritorious Unit Commendation
4. Joint Meritorious Unit Award
5. Coast Guard “E” Ribbon
6. Coast Guard Good Conduct Medal
7. National Defense Service Medal
8. Humanitarian Service Medal with one Bronze Star
9. Coast Guard Special Operations Service Ribbon

² https://en.wikipedia.org/wiki/USCGC_Dallas (WHEC-716) (last visited March 27, 2019).

10. Coast Guard Sea Service Ribbon
11. Coast Guard Rifle Marksmanship Ribbon
12. Coast Guard Pistol Marksmanship Ribbon

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4D 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 block 13 of a DD 214 should show "all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service."

Chapter 3.B.7 of the prior Coast Guard Medals and Awards Manual, provides that the Coast Guard Meritorious Team Commendation (MTC) may be awarded to groups or teams not identifiable by OPFAC as a Coast Guard unit. To justify this award, the individual members of the group must have performed service that made a significant contribution to the group's overall outstanding accomplishment of a study, process, mission, etc. The service performed as a group or team must be comparable to that which would merit the award of the Letter of Commendation or a higher award to an individual. The award of the MTC does not preclude individuals from being recognized with a personal award for the same action/period recognized.

Information regarding the Armed Forces Service Medal (AFSM) appears in various editions of the Medals and Awards Manual. Chapter 5.B.5. of M1650.25C states that the AFSM was authorized on January 11, 1996, and was available for members of the Armed Forces of the United States who, after 1 June 1992:

- (a) Participated as members of U.S. military units, in a U.S. military operation that is deemed to be a significant activity; and
- (b) Encountered no foreign armed opposition or imminent threat of hostile action.

It also states that the member must be a bona fide member of a unit participating for one or more days in the operation within the designated area of eligibility (AOE), or meet one or more of the following criteria:

- (a) Be engaged in direct support for 30 consecutive days in the AOE (or for the full period when an operation is of less than 30 days duration) or for 60 nonconsecutive days provided this support involves entering the AOE.
- (b) Participate as a regularly assigned crewmember of an aircraft flying into, out of, within, or over the AOE in support of the operation.

Chapter 5.B.5.b. of M1650.25C states that the AFSM may be authorized for significant U.S. military activities for which no other U.S. campaign or service medal is appropriate, such as peacekeeping operations or prolonged humanitarian operations; for U.S. military operations in direct support of the United Nations or North Atlantic Treaty Organization; and for operations of assistance to friendly foreign nations.

Chapter 5.B.5.c. of M1650.25C states the following about units that were awarded the AFSM retroactively when it was first authorized in 1996:

The AFSM is approved for the following operations relating to the former Republic of Yugoslavia from 1 June 1992 until a date to be determined: Operations Provide Promise; Joint Endeavor; Able Sentry; Deny Flight; Maritime Monitor; and Sharp Guard within the total land area and airspace of the former Republic of Yugoslavia; Aviano, Ancona, and Brindisi, Italy; and Hungary; and the waters and airspace above that portion of the Adriatic Sea that lies north of forty degrees north latitude. The Chairman of the Joint Chiefs of Staff shall designate U.S. military operations subsequent to 1 June 1992 that qualify for the AFSM and the qualifying areas of eligibility.

The next edition of the Coast Guard Medals and Awards Manual, M1650.25D, issued in 2008, noted at Chapter 5.A.16.b. that the Commandant had approved the AFSM for personnel “in direct support to Hurricane Katrina rescue and recovery from 27 August 2005 to 23 February 2006. A list of other operations for which the AFSM is approved can be found in DOD 1348.33M.” According to the DOD 1348.33, the AFSM was generally approved for the following operations concerning the war in the Balkans in the 1990s, but each Department was “responsible for determining individual eligibility for approved AFSM operations and approved designated areas of eligibility”:

Operation/Task Force - Description	Eligibility Period
MARITIME MONITOR – NATO maritime surveillance of cargo transported through the Adriatic Sea to the former Yugoslavia.	1 Jun 1992 - 1 Dec 1992
PROVIDE PROMISE – Multinational operation to support humanitarian relief activities in Bosnia-Herzegovina	2 Jun 1992 - 15 Feb 1996
DENY FLIGHT – NATO enforcement of the no-fly zone over Bosnia-Herzegovina.	12 Apr 1993 - 2 Dec 1995
SHARP GUARD – NATO maritime enforcement of UN embargo against the former Yugoslavia. U.S. participation was amended by the November 94 Nunn-Mitchell Act to exclude U.S. enforcement of the arms embargo against Bosnia. NATO enforcement actions ended in June 1996 and the operation was terminated in September 1996, following the lifting of the UN embargo and associated economic sanctions.	15 Jun 1993 - 20 Sep 1996
Task Force Able Sentry – Support to the UN Preventive Deployment force in the former Yugoslav Republic of Macedonia. Upon expiration of the UN mandate in February 1999, U.S. forces remained in place and were renamed Task Force Sabre, tasked to protect U.S. facilities and equipment. They were relieved in June 1999 by the U.S. national support element to KFOR-Task Force Falcon (Rear).	12 Jul 1993 - 31 Mar 1999
JOINT ENDEAVOR – NATO Implementation Force operation to implement the military aspects of the Dayton Peace Agreement in Bosnia-Herzegovina.	20 Nov 1995 - 19 Dec 1996
JOINT GUARD – NATO Stabilization Force (SFOR) to deter resumption of hostilities and to stabilize the peace in Bosnia-Herzegovina in accordance with the Dayton Peace Accords (preceded by NATO Operation JOINT ENDEAVOR and followed by JOINT FORGE). Operations DELIBERATE GUARD and DETERMINED GUARD were the respective air and naval components	20 Dec 1996 - 20 Jun 1998
JOINT FORGE – NATO SFOR follow-on force (FOF) providing a continued military presence to deter resumption of hostilities in Bosnia-Herzegovina and to contribute to a secure environment that will promote the re-establishment of civil authority in accordance with the Dayton Peace Accords. Operations DELIBERATE FORGE and DETERMINED FORGE are the respective air and naval components. The U.S. contribution to SFOR was Task Force Eagle.	21 Jun 1998 - 2 Dec 2004

VIEWS OF THE COAST GUARD

On October 30, 2018, a Judge Advocate (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 recommended that partial relief be granted because although the applicant's request is untimely, his DD 214 should be corrected to show that he received the Coast Guard Meritorious Team Commendation. PSC stated that the applicant is eligible for the Meritorious Team Commendation because his record contains a citation to the award dated August 27, 1995, but that it was not included on his DD 214 that was prepared on September 28, 1995.

The Coast Guard recommended that the applicant's request for the Armed Forces Service Medal should be denied. The JAG attorney and the PSC stated that there is no evidence to verify that the USCGC Dallas received the AFSM by virtue of participation in Operation Deny Flight as a part of the Theodore Roosevelt Battle Group. The Coast Guard noted that a query on the Navy Awards website revealed the only award the Theodore Roosevelt Battle Group received during the timeframe in question was the Navy Unit Commendation.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 19, 2018, 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. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.³ The applicant was discharged and received his DD 214 with the list of medals and awards on September 28, 1995, and so his application is untimely.

2. The applicant requested an oral hearing before the Board. The Chair, acting pursuant to 33 C.F.R. § 52.51, denied the request and recommended disposition of the case without a hearing. The Board concurs in that recommendation.⁴

3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.⁵ 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

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

⁴ *Armstrong v. United States*, 205 Ct. Cl. 754, 764 (1974) (stating that a hearing is not required because BCMR proceedings are non-adversarial and 10 U.S.C. § 1552 does not require them).

⁵ 10 U.S.C. § 1552(b).

the delay and the potential merits of the claim based on a cursory review”⁶ 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.”⁷

4. The applicant did not offer any explanation as to why he waited so long to submit his request to the Board. However, because the Coast Guard has identified a medal that is missing from and should be added to 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.

5. The applicant alleged that his DD 214 is erroneous because it does not show that he is entitled to wear the Coast Guard Meritorious Team Commendation Medal and the Armed Forces Service Medal. The Board begins its analysis in every case 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.⁸ 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.”⁹

6. The Board finds that the applicant is eligible for the Coast Guard Meritorious Team Commendation because the record shows that he received the award on August 27, 1995, but that it was not included on his DD 214, which was prepared on September 28, 1995. His record contains a copy of the citation for the award issued to the applicant by the Commandant of the Coast Guard approximately one month before he was discharged, so the applicant has proven by a preponderance of the evidence that he received the award and that the Coast Guard failed to list it on his DD 214.

7. The Board finds that the preponderance of the evidence shows that the applicant is also eligible for the Armed Forces Service Medal. Although the Coast Guard recommended denying this request, the advisory opinion appears to have considered only the regulations in the current manual. Past editions of the manual show that members were eligible for the AFSM based on their involvement in numerous operations and task forces in and around the Adriatic Sea in the 1990s as long as they were “bona fide member[s] of a unit participating for one or more days in the operation within the designated area of eligibility (AOE).” Chapter 5.B.5.c. of M1650.25C states that the AFSM was awarded to members of units involved in Operations Provide Promise; Joint Endeavor; Able Sentry; Deny Flight; Maritime Monitor; and Sharp Guard, and the AOE was defined as follows:

- “within the total land area and airspace of the former Republic of Yugoslavia; Aviano, Ancona, and Brindisi, Italy; and Hungary; and

⁶ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁷ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

⁸ 33 C.F.R. § 52.24(b).

⁹ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

- “the waters and airspace above that portion of the Adriatic Sea that lies north of forty degrees north latitude.”

Therefore, for the crew of the Dallas to be eligible for the AFSM, the cutter must have participated in one of the operations or task forces in the Adriatic Sea north of forty degrees north latitude for at least a day in the summer of 1995. Although the Letter of Appreciation and citation for the team commendation in the applicant’s record do not mention the Adriatic Sea, according to a report of a study of the Dallas’s operations in the summer of 1995 sponsored by the U.S. Navy, the Dallas did make port calls in the Adriatic Sea above forty degrees north latitude.¹⁰ The report states that from May 29 to August 28, 1995, the Dallas made port calls in seven nations in the region, including Koper, Slovenia, from July 24 to 28, 1995, and Tirana, Albania, from August 5 to 9, 1995.¹¹ Both of these ports are on the Adriatic coast above forty degrees north latitude. And although the Dallas’s overall mission that summer was primarily diplomatic and training-related, the report states that the Dallas also engaged “in exercises and operations with battle group assets” and “Adriatic operations with COMCARGRU EIGHT,” including being a “deck of opportunity” for Navy helicopters.¹² It also states that the “Dallas’s primary responsibility while in the Adriatic was CV [carrier vessel] escort.”¹³ Therefore, the Board finds that the applicant is entitled to the AFSM because he was a member of the crew of the Dallas while it engaged in aircraft carrier escort and other naval operations in the Adriatic Sea in the summer of 1995.

9. The applicant has proven by a preponderance of the evidence that his DD 214 does not accurately reflect all of the medals and awards he received or is eligible to receive. Accordingly, the Board will direct the Coast Guard to correct his DD 214 to show that he was awarded a Coast Guard Meritorious Team Commendation and an AFSM.

(ORDER AND SIGNATURES ON NEXT PAGE)

¹⁰ *Richard D. Kohout*, “USCGC Dallas Med/Black Sea Deployment: Regional Engagement and USCG-USN Interoperability” (Center for Naval Analyses, 1996), p. 1 (approved for distribution by the Navy’s Director of Joint Task Force Team, Operating Forces Division), available at <https://media.defense.gov/2017/Jun/27/2001769131/-1/-1/0/CNA1996DALLASREPORT.PDF> (last visited April 18, 2019).

¹¹ *Id.* at 58, 64.

¹² *Id.* at 30.

¹³ *Id.*

ORDER

The application of former SS3 [REDACTED], USCG, for correction of his military record is granted. His DD 214 shall be corrected to show that he received the Coast Guard Meritorious Team Commendation and an Armed Forces Service Medal.

April 19, 2019

