

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-182

██████████
BM2 (former)

FINAL DECISION

This is a proceeding under 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 July 17, 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 May 31, 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 boatswain's mate second class (BM2) who served in the Coast Guard for more than seven years from March 15, 1994, to February 7, 2002, asked the Board to add the following medals and ribbons to his discharge form DD 214:¹

1. A bronze star on his National Defense Service Medal (NDSM)
2. Global War on Terrorism Service Medal (GWOTSM)
3. Special Operations Service (SOS) Ribbon

The applicant argued that he is eligible for a bronze star on his NDSM because he served on active duty during two eligibility periods, including September 11, 2001, until his discharge in 2002. He argued that he is eligible to receive the GWOTSM because he participated in Operation Noble Eagle from September 11, 2001, to January 30, 2005. With regards to the SOS Ribbon, the applicant argued that he should receive it because he participated in Operation Guarding Liberty in New York City and was deployed to the Eastern Pacific Joint Inter-Agency Task Force-East aboard the USS Bradley while assigned to Law Enforcement Detachment (LEDET) 408.

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. COMDTINST 1900.4D.

The applicant stated that he discovered these alleged errors in his record on May 1, 2018, and argued that the Board should find it in the interest of justice to consider his application because he earned the awards and does not want anyone to “claim Stolen Valor” when they see his accomplishments. In support of his application, he submitted a copy of his DD 214 and the following:

- A Letter of Commendation dated October 29, 2001, from the Commandant of the Coast Guard commends the applicant for his performance of duty while participating in Operation Guarding Liberty from September 27, 2001, through October 22, 2001.
- A citation for a Coast Guard Meritorious Unit Commendation awarded to the USS Robert G. Bradley on January 15, 2002, states that it was awarded for the crew’s exceptionally meritorious service from June 10, 2001, to August 15, 2001.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on March 15, 1994, and was honorably discharged on February 7, 2002, after completing his required active service. On September 11, 2001, he was serving a tour of duty aboard the USCGC Adak. Block 13 of his DD 214 shows that he was entitled to wear the following medals, badges, ribbons, and campaign awards:

- Secretary’s Outstanding Unit Award
- Coast Guard Meritorious Unit Commendation Ribbon awarded to the crew of the USS Bradley for service from June 10, 2001, to August 15, 2001
- Coast Guard “E” Ribbon
- First Coast Guard Good Conduct Award for the period ending March 14, 1997
- National Defense Service Medal
- Humanitarian Service Medal
- Coast Guard Sea Service Ribbon
- Coast Guard Rifle Marksmanship Ribbon
- Coast Guard Pistol Sharpshooter Ribbon
- Commandant’s Letter of Commendation Ribbon w/one Gold Star
- Coast Guard Meritorious Unit Team 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 5.A.1 of COMDTINST M1650.25D, the Coast Guard Medals and Awards Manual, states that the NDSM is awarded to personnel who perform Honorable active service as a member of the Armed Forces for any period (inclusive) from June 27, 1950, to July 28, 1954; from January 1, 1961, to August 14, 1974; from August 2, 1990, to November 30, 1995; or from September 12, 2001, to a date to be determined by the Secretary of Defense. A 3/16 inch bronze star is authorized for subsequent awards of the NDSM.

Chapter 5.A.13 of the Medals and Awards Manual states that the GWOTSM was established in 2003 and is awarded to all Coast Guard members who were on active duty for a period of not less than 30 consecutive days or 60 non-consecutive days from September 11, 2001, through January 30, 2005.

Chapter 5.A.20 of the Medals and Awards Manual states that the SOS Ribbon is awarded to personnel of the Armed Forces serving in any capacity with the Coast Guard, Coast Guard Auxiliary, and certain other uniformed individuals who, after July 1, 1987, participated in significant numbers in a major Coast Guard operation of a special nature, not involving combat. The member must not have been recognized by another service award, such as the Humanitarian Service Medal, for the same operation during the same period of service. Enclosure 19 lists all of the operations for which the ribbon has been authorized, and none of the operations that the applicant participated in are on the list.

VIEWS OF THE COAST GUARD

On January 28, 2019, 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 argued that partial relief should be granted because although the applicant's request is untimely, his record does contain an error which should be corrected.

PSC recommended that the applicant's DD 214 be corrected by adding a second NDSM and the GWOTSM to his DD 214 because he served on active duty during the established eligibility timeframes for the medals.

PSC recommended that the Board deny the applicant's request to add the SOS Ribbon to his DD 214. PSC argued that he is not eligible to receive the ribbon because none of the places he served while on active duty are listed as eligible for the award in Enclosure 19 of the Medals and Awards Manual. Moreover, PSC noted that the applicant and other crewmembers aboard the USS Bradley received a Meritorious Unit Commendation for their service, which is already included on his DD 214.

The JAG added that the applicant believes that he is eligible for the SOS ribbon for his participation in Operation Guarding Liberty; JIATF-East; service aboard the USS Robert G. Bradley; Operation Noble Eagle; LEDET 101; and/or LEDET 408, but that none of these units, time frames, and/or operations are listed in Enclosure 19 of the Medals and Awards Manual as being eligible to receive the SOS Ribbon.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 5, 2019, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The BCMR 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.² The applicant received his DD 214 on February 7, 2002, when he was discharged from active duty and the preponderance of the evidence shows that he knew its contents at that time. Therefore, his application with respect to the second NDSM and the SOS Ribbon is untimely. The GWOTSM, however, was not authorized until after the applicant was discharged, and he claimed that he did not learn about this medal until May 2018. Therefore, the preponderance of the evidence shows that his request for the GWOTSM is timely.

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 seek a second NDSM and the SOS Ribbon, but because the Coast Guard has identified clear omissions on his DD 214, which should be corrected, 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 does not list a second NDSM, the GWOTSM, or the SOS Ribbon. In considering allegations of error and injustice, 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.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 Board finds that the applicant is eligible to receive a second NDSM, denoted by a bronze star. Pursuant to Chapter 4.A. of the Medals and Awards Manual, he received his first NDSM for his service during the eligibility period from 1994 to 1995 and is eligible for a second NDSM for his service from 2001 to 2002. The applicant’s DD 214 indicates that he received only one award of the NDSM, though a DD 214 is supposed to show medals and awards received for all periods of service. Therefore, his DD 214 should reflect two awards of the NDSM, denoted by the ribbon with one bronze star: the first for his service between March 1994 and November 1995 and the second for his service from 2001 to 2002.

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).

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).

6. The applicant argued that his DD 214 should be corrected to show that he earned the GWOTSM. The Board finds that he is eligible for this medal because Chapter 5.A.13 of the Medals and Awards Manual states that members are eligible to receive the medal if they served on active duty for not less than 30 consecutive days between September 11, 2001, and January 30, 2005. The record shows that the applicant served on active duty from the start of the eligibility period through February 7, 2002, and is therefore eligible for the medal. His DD 214 should be corrected to reflect it.

7. Finally, the applicant argued that his DD 214 should be corrected to show that he received the SOS Ribbon because he participated in Operations Guarding Liberty in New York City and was deployed to JIATF-East aboard the USS Bradley while assigned to LEDET 408. However, the Board finds that he has not proven by a preponderance of the evidence that he is eligible for the SOS Ribbon because neither of those operations is listed in Enclosure 19 of the Medals and Awards Manual as being eligible for the ribbon. In addition, the criteria for the SOS Ribbon state that the ribbon may not be awarded for operations for which another medal or award has been awarded, and the record shows that the applicant received other awards for the two operations he named: The applicant received a Secretary's Outstanding Unit Award as a crewmember of the CGC Adak during Operation Guarding Liberty, and he received a Coast Guard Meritorious Unit Commendation as a member of LEDET 408 aboard the USS Bradley.

8. Accordingly, partial relief should be granted. The applicant's DD 214 dated February 7, 2002, should be corrected to show that he received a received a second award of the National Defense Service Medal, denoted by one bronze star attached to the medal, and the Global War on Terrorism Service Medal. All other requests should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former BM2 [REDACTED], USCG, for correction of his military record is granted in part. His DD 214 shall be corrected to show that he received a second award of the National Defense Service Medal, denoted by one bronze star attached to the first medal, and the Global War on Terrorism Service Medal. All other requests are denied.

May 31, 2019

