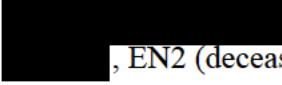


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-024

, EN2 (deceased)

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 25, 2018, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated February 14, 2020, 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 the daughter of the former engineman second class (EN2) named in the case caption above, who was discharged from the Coast Guard on June 1, 1966. She asked the Board to correct her father's DD 214s¹ to show all of the service schools that he attended and all of the awards that he is eligible to receive for his service during the Korean and Vietnam Wars. She stated that her father served on active duty from February 5, 1952, to August 4, 1954; May 7, 1957, to May 20, 1960; and May 21, 1960, to June 1, 1966, and alleged that his DD 214s do not reflect the service schools he attended or the medals that he should have received. She did not name the service schools that he attended or the medals or awards that she believes her father is eligible to receive.

In support of her request, the applicant submitted copies of two DD 214s, reflecting her father's service from February 2, 1952, to August 4, 1954, and from May 21, 1957, to May 20, 1960. The applicant also submitted a copy of a Request Pertaining to Military Records that she submitted to the National Archives and Records Administration on March 28, 2018, in which she alleged that her father's DD 214s do not reflect all of his schools and assignments and are missing the medals that he should have received for his service during the Korean and Vietnam Wars.

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.

The applicant also submitted a copy of her father's death certificate, which shows that he passed away on December 23, 2003.

The applicant stated that she discovered the alleged errors in her father's record on March 26, 2018, and argued that the Board should find it in the interest of justice to consider her application because she has none of his medals, certificates, or award citations.

SUMMARY OF THE RECORD

Discharge Documentation

The applicant's military record includes the following separation documentation:

- A DD 214 shows that the applicant's father enlisted in the Coast Guard on February 5, 1952, and was honorably discharged and released into the Reserve on August 4, 1954, after completing exactly two years and six months of active duty. The DD 214 shows that he had performed one year, one month, and one day of foreign and/or sea service during the enlistment, and states that his "most significant duty assignment" was Coast Guard Depot, Guam. The DD 214 indicates that he received the National Defense Service Medal (NDSM). Block 30 indicates that he did not complete any service schools or training courses during his enlistment. Upon his discharge, he was serving as a fireman (E-3) with no designated rating.
- A second DD 214 shows that the applicant's father reenlisted on active duty on May 21, 1957, and was honorably discharged on May 20, 1960, after completing another three years on active duty. It also shows that he had performed one year, two months, and twenty-six days of foreign and/or sea service during the enlistment. The USCGC Mallow, a buoy tender based in Astoria, Oregon, is listed in block 12 as his last duty assignment and major command. Block 26 shows that he was entitled to wear the NDSM. Block 28 indicates that he did not complete any service schools or courses during the period covered by the DD 214. His rating upon discharge was EN3 (engineer, third class; pay grade E-4).
- A third DD 214 shows that the applicant's father immediately reenlisted on active duty on May 21, 1960, and was honorably discharged as June 1, 1966, after completing another six years and eleven days of active duty. Therefore, he had completed a total of eleven years, six months, and eleven days of active duty. It also shows that he had served one year, seven months, and six days of foreign and/or sea service during the enlistment and that his last assignment and major command was a light station in California. It shows that he was authorized for a Good Conduct Medal for the period from August 1, 1958, to July 31, 1962. Block 28 shows that he attended the Law Enforcement School in Alameda, California from April 22 to 26, 1963, and completed EN service courses on February 16, 1962, and May 14, 1965. He was discharged as an EN2 in pay grade E-5.

Medals and Awards Documentation

The applicant's father's record contains documentation of the following medals and

awards:

- Administrative Remarks dated May 21, 1960, stating that the applicant's father qualified as a Marksman with the rifle on August 11, 1959.
- An undated Statement and Receipt for Medals indicating that the applicant's father received the NDSM (also noted on two of his three DD 214s).
- An Administrative Remarks form dated November 24, 1953, states that the applicant's father is entitled to the NDSM.
- An Administrative Remarks form dated May 11, 1966, states that the applicant's father is entitled to wear the Coast Guard Good Conduct Medal (GCM) for the three-year period ending July 31, 1962.

Foreign and Sea Service

The record also contains documentation of his assignments to sea duty and foreign service:

- A CG-3306 Marks form lists his duty stations and cutters from 1952 through 1954. The form shows that he served at the Coast Guard Depot on Guam from September 30, 1952, through June 30, 1953, and served aboard the Coast Guard Cutter Fir—a lighthouse tender based in Seattle, Washington—from December 31, 1953, to August 4, 1954.
- An Administrative Remarks form dated October 25, 1953, states that he had served a total of twelve months and twenty-two days at a Coast Guard Depot in Guam, Marianas Section. On that date he was transferred to Seattle, Washington, and reassigned to the CGC Fir.
- A Service Record Card shows that the applicant again served overseas at a Coast Guard Depot in Guam and at a Long-Range Navigation Station (LORSTA) in Saipan (just north of Guam) from March 1961 to February 1962.

VIEWS OF THE COAST GUARD

On May 20, 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 her request is untimely, her father's record does contain two errors which should be corrected.

Regarding the applicant's request to have her father's earned awards and service schools added to his DD 214s, PSC stated that there are only two awards missing from her father's DD 214s. PSC stated that her father's DD 214s are missing the Rifle Marksman medal and the Restricted Duty Ribbon. PSC noted that the applicant's father qualified as a rifle marksman on

August 11, 1959, but that it is not reflected on any of his DD 214s. PSC recommended that the Rifle Marksman be added to his record via a DD 215.²

With respect to the Restricted Duty ribbon, PSC argued that it should also be added to the DD 215 because the record shows that the applicant's father served at LORSTA Guam. PSC argued that the applicant's father is not eligible for any Vietnam or Korea service medals because both of those medals require that the member be in that country, and the applicant was never stationed in Vietnam or Korea.

Regarding the applicant's request to have service schools added to her father's DD 214, PSC stated that it had reviewed her father's entire personnel record and found no evidence that he completed any service schools that are not already included on his DD 214s.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 23, 2019, the BCMR sent the applicant a copy of the Coast Guard's recommendation and invited her to respond within 30 days. The BCMR did not receive a response.

APPLICABLE LAW AND REGULATIONS

DD 214 Manual

COMDTINST 1900.4A, issued in 1975, is the oldest edition of the Commandant's instructions for completing the DD 214 available to the Board. Enclosure (1) of the instructions state that the decorations, medals, and awards block on the DD 214 should show "all decorations, medals, badges, commendations, and campaign ribbons awarded or authorized during the *current* tour of active service." More recent editions of the DD 214 manual state that the medals and awards earned during *all* periods of service should be listed on a member's DD 214 and that the DD 214 should be accurate as of the date of discharge.

COMDTINST 1900.4A states that to assist the member in employment placement and job counseling, Block 27 of the DD 214 should include the formal in-service training courses successfully completed during the period covered by the DD 214. It notes that training courses for combat skills should not be listed.

Medals and Awards

Chapter 5.A.20. of COMDTINST M1650.25E, the Coast Guard Military Medals and Awards Manual, states that the Coast Guard Restricted Duty Ribbon is awarded to Coast Guard personnel who have completed a Permanent Change of Station (PCS) tour of duty at a shore unit listed in Enclosure 18. Enclosure 18 states that the Restricted Duty Ribbon is awarded to members who serve at a LORAN station, including CG LORSTA Guam (prior to March 30, 1967). A

² 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.

3/16-inch bronze star is authorized for subsequent awards of the Restricted Duty Ribbon and a 3/16-inch silver star denotes the sixth award.

Article 6.A.3. of the awards manual states that the Vietnam Service Medal was awarded in recognition of service performed in Vietnam on or after March 1, 1962. It was awarded to members of the Armed Forces of the United States under the following conditions:

- (1) Awarded to all members serving at any time between 4 July 1965 and 28 March 1973 in the area defined under the Armed Forces Expeditionary Medal for Vietnam.
- (2) Awarded to all members of the Armed Forces of the United States in Thailand, Laos, or Cambodia or the air space thereover, between 4 July 1965 and 28 March 1973 and serving in direct support of operations in Vietnam.

Eligible members for the Vietnam Service Medal also include those attached to or regularly serving for 1 or more days with an organization participating in or directly supporting military operations; attached to or regularly serving for 1 or more days aboard a naval vessel directly supporting military operations; actual participation as a crewmember in one or more aerial flights directly supporting military operations; service for 30 consecutive or 60 non-consecutive days, except that time limit may be waived for personnel participation in actual combat operations. See enclosure (16) for a list of authorized campaigns and Coast Guard units having service creditable for the Vietnam Service Medal.

Chapter 5.A.4 of the 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. A 3/16-inch silver star denotes the sixth award.

Enclosure 16 of the current awards manual states that the Vietnam Service Medal is awarded to members of the armed forces who served in Vietnam, its contiguous waters, or air-space, between March 15, 1962, and March 28, 1973. Squadron One is on the list for the period July 4, 1965, through August 15, 1970.

Article 6.A.2. of the awards manual states that the Republic of Vietnam Campaign Medal was awarded in recognition of service performed in Vietnam on or after March 1, 1962.

The current Coast Guard Medals and Awards Manual lists two separate medals for members who served in the Republic of Korea: The Korean Defense Service Medal and the Republic of Korea War Service Medal. Eligibility for either medal requires that the member be assigned, attached, or mobilized to units operating within the area of eligibility and have been physically deployed within the area of eligibility. To earn this award, the individual must have been assigned, attached, or mobilized to units operating within the AOE and have been physically deployed within the area of eligibility.

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's father was discharged from the Coast Guard and received his last DD 214 on June 1, 1966, and so the application is untimely.

2. 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

3. The applicant did not explain why she waited so long to seek these corrections of her father's records and the Board finds that nothing prevented her, or her father, from seeking correction of the alleged errors or injustices more promptly. However, because her father's DD 214s contain a few omissions, 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 the multiple DD 214s in her father's record do not reflect all of the service schools that he attended, nor do they list any awards that he should have received for his service during the Vietnam and Korean wars. The Board begins its analysis in every case by presuming that the disputed information in the member'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.⁷ 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.”⁸

5. The applicant argued that her father's DD 214s do not reflect all of the service schools that he attended while he was on active duty. The Board disagrees. Her father's DD 214s for his service from February 5, 1952, to August 4, 1954, and May 21, 1957, to May 20, 1960, indicate that he did not attend any service schools or complete any service training during those enlistments, and his record does not contain anything to show otherwise. Moreover, the applicant did not submit anything to show that her father attended any service schools or service training

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).

⁷ 33 C.F.R. § 52.24(b).

⁸ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

courses during these two enlistments. The Board notes, however, that her father's third DD 214 for his service from May 21, 1960, to June 1, 1966, does list the schools he attended and the training that he received. The DD 214 indicates in Blocks 28 and 29 that he completed the Law Enforcement School from April 22, 1963, to April 26, 1963, and Engineman training on February 16, 1962, and May 14, 1965. Accordingly, the Board finds that her father's DD 214s correctly list the service schools that he attended and the service training that he received.

6. With respect to the applicant's request for her father's DD 214s be corrected to reflect the awards that he should have received during his service, the Board finds the following:

a. The Coast Guard stated that the applicant's father is entitled to the NDSM and noted that his DD 214s already reflects this medal. The applicant's father is eligible for the NDSM for the service that he performed from February 5, 1952, to August 4, 1954, and his DD 214 for this period of service indicates that he earned the medal. However, the second DD 214 covering his active service from May 21, 1957, to May 20, 1960, also lists the NDSM, but the Board finds that this is incorrect. According to Chapter 5.A.4. of the Medals and Awards Manual, the NDSM was not awarded to anyone from July 29, 1954, to December 31, 1960, so the NDSM should not be listed on the DD 214 for May 21, 1957, to May 20, 1960. Although more recent editions of the DD 214 manual state that the medals and awards earned during *all* periods of service should be listed on a member's DD 214, the Coast Guard's instructions for completing the DD 214 in 1975, the oldest edition available to the Board, state in Enclosure (1) that the decorations, medals, and awards block on the DD 214 should show "all decorations, medals, badges, commendations, and campaign ribbons awarded or authorized during the *current* tour of active service." Thus, the NDSM listed on his first DD 214 should not have been listed on his second DD 214. However, the Board finds that the applicant's father is eligible to receive a second NDSM for service he performed from May 21, 1960, to June 1, 1966, because the awards manual states that the medal may be awarded to members who perform service between January 1, 1961, to August 14, 1974. Accordingly, the Board will order the Coast Guard to correct the applicant's father's DD 214 to show that he received the NDSM with one bronze star, to denote the second award.

b. The Coast Guard recommended that the applicant's father's record be corrected to show that he earned the Restricted Duty Ribbon. The Board agrees. The record shows that he served at LORSTA Guam from September 30, 1952, to June 30, 1953, and Enclosure 18 to the awards manual states that the Restricted Duty Ribbon is awarded to members who served at CG LORSTA Guam.

c. The applicant asked the Board to ensure that her father's record includes any medals or awards that he is eligible to receive for having served in the Coast Guard during the Korean and Vietnam wars. Unfortunately, the Board finds that her father is not eligible to receive any medals specific to those wars because the record shows that he did not serve in Korea or Vietnam, and the awards manual clearly states that to receive medals for service in those two countries the member must have been in those countries. The applicant's father served in Guam and Saipan, which is slightly north of Guam, but they are thousands of miles from Vietnam and Korea. Moreover, the awards manual does not

list any Vietnam or Korean medals for members who were on active duty during those wars but not actually in those countries or providing direct support. Accordingly, the applicant has failed to prove by a preponderance of the evidence that her father is eligible to receive any Korea or Vietnam medals.

d. The Coast Guard reviewed the record and determined that the applicant's father qualified as a rifle marksman on August 11, 1959, but noted that it was not reflected on any of his three DD 214s. PSC recommended that the Rifle Marksmanship Ribbon be added to his record via a DD 215. The Board agrees.

7. The applicant has proven by a preponderance of the evidence that her father's DD 214s do not accurately reflect all of the medals and awards that he received or is eligible to receive. Accordingly, the Board will waive the statute of limitations and direct the Coast Guard to correct her father's final DD 214 to show that he was awarded the National Defense Service Medal with one bronze star, the Restricted Duty Ribbon, and the Rifle Marksmanship Ribbon, in addition to the Good Conduct Medal already listed on his DD 214.⁹ All other requests should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁹ The applicant did not receive another Good Conduct Medal because he was punished for failing to obey an order on October 23, 1963.

ORDER

The application for correction of the military record of former EN2 [REDACTED] [REDACTED] USCG, is granted in part. The Coast Guard shall correct his final DD 214 to show that he is eligible to receive the National Defense Service Medal with one bronze star, the Rifle Marksmanship Ribbon, and the Restricted Duty Ribbon. All other requests are denied.

February 14, 2020

