


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2022-001


BM3 (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 November 23, 2021, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision dated November 4, 2022, 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 third class (BM3) who served on active duty in the Coast Guard from March 4, 2003, to August 3, 2010, asked the Board to correct his DD 214¹ to show that he received four Special Operations Service (SOS) Ribbons. He argued that he is eligible for the ribbons because he participated in four separate high security operations, including a Vice President Security Package, a Republican National Convention, the 2010 World Nuclear Arms Summit, and the escort of a cutter for DHS Secretary Michael Chertoff. The applicant alleged that his command "failed to recognize" that all of the operations met the criteria for the ribbons under the Coast Guard Medals and Awards Manual.

The applicant argued that he is eligible to receive the first SOS Ribbon because he participated in operations from May 2009 to June 2009 during which his unit provided a waterside security package for then Vice President Biden. He alleged that this operation qualifies him for the SOS Ribbon because it was in coordination with the United States Secret Service for the protection of the Vice President and for the national security of the United States.

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 argued that he is eligible to receive a second SOS Ribbon because he was part of a security force that supported the 2008 Republican National Convention. The applicant argued that the operation clearly qualifies for the SOS Ribbon because the event was national security in nature. Specifically, he stated that delegates were set to vote on the nomination of the next Republican presidential candidate. The applicant also stated that the operation qualifies for the SOS Ribbon because the event attracted a great deal of media attention and was conducted with other state and federal law enforcement agencies.

The applicant argued that he is eligible to receive a third SOS Ribbon because he participated in an operation in which his unit conducted security patrols in support of anti-terrorism operations during the 2010 World Nuclear Arms Summit. He argued that his participation in this operation qualifies him for the SOS Ribbon because the operation was conducted in cooperation with the U.S. Army and the United States Secret Service.

The applicant argued that he is eligible to receive a fourth SOS Ribbon because he served at a unit that conducted a security operation in 2008 for DHS Secretary Chertoff and other senior members. He stated that his unit conducted a security zone around a cutter and escorted the vessel into port.

In support of his request, the applicant submitted the following: Military Temporary Duty Travel Orders for May 18 to June 18, 2009; a Letter of Commendation; a statement from former Gunner's Mate Second Class (GM2) L; a statement from Chief Petty Officer (CPO) H; and a statement from retired Chief Warrant Officer (CWO) T.

The Letter of Commendation, dated June 1, 2010, commended the applicant for his performance while assigned to an MSST from June 2007 to August 2010. The letter notes that his tour at the MSST included "high visibility national homeland security missions."

In the statement from GM2 L, he indicated that he served with the applicant at a Marine Safety and Security Team (MSST) from 2008 to 2010. He stated that he completed two missions with the applicant that were "high profile" and merit consideration for the SOS Ribbon. The first mission was the security operation on the cutter in 2008. GM2 L stated that during this mission, he and the applicant provided security operations in a limited access security zone for an event involving special dignitaries. The second mission was the 2010 World Nuclear Arms Summit. GM2 L stated that during this mission, he and the applicant were part of boat crews assigned to secure many bridges and key infrastructure. He stated that this mission spanned almost two weeks and involved multiple agencies.

In the statement from CPO H, he stated that he worked with the applicant at an MSST from 2007 to 2009. During that time, he and the applicant patrolled waters and waterfront facilities at the 2008 Republican National Convention because of the possibility of terrorist acts and riots. CPO H noted that the operation had high visibility due to the media attention on the election. He also stated that the operation was conducted in cooperation with local and state agencies. CPO concluded by stating that the applicant completed the operation without incident.

In the letter from retired CWO T, he stated that the applicant was an integral part of several successful security details. Specifically, he cited a 2008 detail involving the Vice President, the 2008 Republican National Convention, and the 2010 World Nuclear Arms Summit.

Finally, the applicant addressed the delay in his application. He stated that he discovered the errors on September 19, 2021, and argued that the Board should find it in the interest of justice to consider his application because the operations he participated in “were of extreme importance regarding national security protecting dignitaries but that the command staff failed to recognize that he and his fellow members had earned the SOSs.”

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on March 4, 2003. After completing recruit training, the applicant attended BM “A” School.

On August 3, 2010, the applicant was honorably discharged from active duty. His DD 214 shows that he earned the following medals and awards during his enlistment:

- Commandant’s Letter of Commendation
- Coast Guard Meritorious Team Commendation Ribbon with two bronze stars
- Coast Guard Pistol Expert Medal
- Coast Guard Presidential Unit Citation
- Coast Guard Expert Rifle Medal
- Coast Guard Sea Service Ribbon
- Coast Guard Unit Commendation Award
- Cutterman Insignia
- Global War on Terror Service Medal
- Second Coast Guard Good Conduct Award

VIEWS OF THE COAST GUARD

On May 3, 2021, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief in this case. In doing so, he adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC first recommended denying relief because the application is untimely. PSC also recommended denying relief because the applicant failed to show that the Coast Guard committed an error or injustice. PSC stated that according to the Coast Guard Military Medals and Awards Manual, the operations referenced by the applicant were never authorized for issuance of the SOS Ribbon.

The JAG reiterated that relief should be denied because the application is untimely. Regarding the merits, the JAG argued that the evidence provided by the applicant is insufficient to show that his DD 214 is erroneous or unjust. The JAG argued that although an operation

might meet the eligibility criteria for an SOS Ribbon, that eligibility does not create an obligation on a command to recommend a member or unit for the ribbon.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 8, 2022, the BCMR sent the applicant a copy of the Coast Guard’s recommendation and invited him to submit a response. He responded on May 10, 2022, and disagreed with the JAG’s assertions that his application is untimely and that he is not eligible to receive any SOS Ribbons.

The applicant argued that his application is not untimely. He stated that his command did not discover that he and other members of his unit were eligible for the SOS Ribbons until September 2021, and that he submitted his application to the Board as soon as he discovered the error. The applicant also noted that the Board has granted relief in several awards cases in which the application was submitted years after the statute of limitations had passed. He alleged that in some cases, the Board corrected records 30 to 40 years after the applicant was discharged. The applicant argued that his application should be reviewed on the merits because like the applicants in those cases, he has proven that he is eligible to receive the requested ribbons.

The applicant also disagreed with the JAG’s assertions that he is not eligible to receive the four SOS Ribbons. He argued that the documentation he provided clearly proves that the four SOS Ribbons are something that he and his shipmates earned. He argued that the only reason his command failed to recommend his unit for these ribbons was the lack of knowledge of the awards. To support this assertion, the applicant stated that CWO T recently encouraged him to pursue the additional ribbons. He argued that this is evidence that CWO T would have timely recommended him for the ribbons had he known about them. The applicant acknowledged that there is not a requirement or obligation for a command to recommend that a member receive an SOS Ribbon. However, he argued that if he was eligible for a ribbon, he should receive it.

Finally, the applicant asked the Board for two additional corrections to his military record. First, he asked that his DD 214 be corrected to show he earned the National Defense Service Medal (NDSM). To support his request, the applicant cites his dates of service and his character of service. Second, he asked the Board to correct his DD 214 to show that he earned the Boat Forces Insignia Pin. He argued that he earned the pin “over the five-year requirement as per COMDTINST 1650.3 for advance certification.” Specifically, he stated that he qualified as a Boat Crewman and Boarding Team member while at the MSST.

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 instructions state 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.18 of the Coast Guard Military Medals and Awards Manual, COMDTINST M1650.25E, states that the SOS Ribbon is awarded to personnel of the Armed Forces of the U.S. serving in any capacity with the Coast Guard, Coast Guard Auxiliary members, and certain other uniformed individuals who, after 1 July 1987, participated in significant numbers in a major Coast Guard operation of a special nature, not involving combat. The manual notes that the SOS Ribbon may be authorized for any of the following categories of multi-unit or multi-service operations, but may not be awarded for training:

- (1) Coast Guard operations of a special nature with multiple-agency involvement pertaining to national security or law enforcement.
- (2) Coast Guard operations or involvement with foreign governments in all areas of saving life and property at sea.
- (3) Coast Guard operations of assistance for friendly and/or developing nations.

Chapter 5.A.18.d. of the manual states that recommendations for the SOS Ribbon must be submitted to the Area Commander via the appropriate chain of command, within two years of the military act or operation to be recognized. Recommendations must be in letter form and include the following:

- (1) A narrative justification;
- (2) A specifically defined geographic area;
- (3) A listing of ships and or units that directly participated in the military act or operation, specifying dates of involvement;
- (4) A listing of individuals, detailing full name, rank or rate, EMPLID, branch of service, and permanent unit at the time of the act or operation;
- (5) Forwarding endorsements making a specific recommendation for approval or disapproval.

Enclosure 19 of the manual lists all of the operations that have been recommended and authorized for the SOS Ribbon. None of the operations that the applicant described in his application are listed in the enclosure.

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.

Volume I, Chapter 6 of the U.S. Coast Guard Boat Operations and Training (BOAT) Manual, COMDTINST MI6114.32D, states that the Boat Force Operations Insignias are

intended to identify Coast Guard personnel with Boat Force operations, management, knowledge and expertise. In addition to development as subject matter experts, these insignias recognize members with a career path in Boat Forces. The insignias are awarded to recognize demonstrated level of proficiency with Boat Forces operations, management, and oversight.

Coast Guard Military Medals and Awards Manual, issued on May 13, 2002, provides guidance on the Boat Force Operations Insignia. It states that issuance of the Boat Forces Insignia shall be documented with an Administrative Remarks form (“Page 7”) entry in the member’s Personnel Data Record (PDR), and that members must meet the criteria for the insignia, including the following:

- Five years of cumulative service at Boat Forces Field Units.
- Attainment of a boat crewmember qualification code by completing the Personnel Qualification Standard.
- A favorable recommendation from the Group Commander.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on 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. 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.²
3. 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 from active duty and received his DD 214 on August 3, 2010, and submitted his application to the Board on September 21, 2021. He stated that the errors occurred between 2008 and 2010, but noted that he did not discover them until 2021. Therefore, the preponderance of the evidence shows that the applicant should have known of the alleged error in his record in 2010, and his application is untimely.
4. 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

² *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).

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

⁴ *Id.*; 33 C.F.R. 52.22.

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

merits would need to be to justify a full review.”⁶ In accordance with this direction, the Board has conducted a cursory review of the merits and finds no reason to excuse the untimeliness of the application:

a. The applicant explained that his 11-year delay in submitting his application was because he did not discover the errors until 2021. Specifically, he stated that his command did not discover that he and other members of his unit were eligible for the SOS Ribbons until September 2021. However, the applicant did not provide any evidence to support his assertion that his command discovered the alleged error in 2021. Therefore, the Board finds that the applicant failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.

b. A cursory review of the merits of this case shows that the applicant’s claim lacks potential merit. He asked the Board to correct his DD 214 to show that he earned four SOS Ribbons, but there is nothing in his record to show that anyone in his command recommended that he or anyone else in his unit receive them. Chapter 5.A.20 of the Coast Guard Military Medals and Awards Manual states that recommendations for the SOS Ribbon must be submitted to the Area Commander or Commandant via the appropriate chain of command within two years of the military act or operation to be recognized. There is nothing in the applicant’s record to show that this was done. Moreover, none of the operations that he participated in are included in Enclosure 19 of the manual, which lists all the operations that have been recommended and authorized for the SOS Ribbon.

c. In his response to the Coast Guard’s recommendation, the applicant asked that his DD 214 be corrected to show that earned the Boat Forces Insignia Pin. His record shows that he was qualified as a tactical Boat Crewman as well as a Boarding Team member. However, the Coast Guard Military Medals and Awards Manual states that eligibility for the pin requires a favorable recommendation from the Group Commander, and the applicant’s record does not contain such a recommendation. Even if the applicant were to prove that he is eligible for the Boat Forces Insignia Pin, the instructions for preparing the DD 214 do not state that insignias, including the Boat Forces Insignia Pin, can be included on the DD 214.

5. In the applicant’s response to the Coast Guard’s recommendation, he also asked the Board to correct his record to show that he received the NDSM. Chapter 5.A.4 of the Coast Guard Military 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 after September 12, 2001, to a date to be determined by the Secretary of Defense. The Board finds that the applicant has proven by a preponderance of the evidence that he is eligible for the NDSM because his record shows that he performed honorable active service from March 3, 2003, to August 3, 2010.

6. Accordingly, the Board will not waive the statute of limitations and the applicant’s request for the SOS Ribbons and Boat Forces Insignia Pin should be denied. However, he has proven by a preponderance of the evidence that he is eligible for the NDSM, so partial relief should be granted by correcting his record to show that he earned the medal.

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

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former BM3 [REDACTED] [REDACTED] USCG, for correction of his military record is granted in part. The Coast Guard shall issue him a DD 215 showing that he received the National Defense Service Medal. All other requests are denied.

November 4, 2022

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