


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

Application for the Correction
of the Coast Guard Record of:

BCMR Docket No. 2023-003


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 October 13, 2022, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision dated January 18, 2024, 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/E-4), asked the Board to correct his DD 214¹ to show that he received the following medals and awards:

- the Department of Transportation (DOT) 9/11 Medal,
- the Global War on Terror Service Medal (GWOTSM),
- the Secretary's Outstanding Unit DOT Gold with "O" Device for 9/11,
- the Special Operations Service (SOS) Ribbon for 9/11, and
- the SOS Ribbon for the Sea Marshall Program.

The applicant argued that he is eligible for the medals and ribbons because he was assigned to a Coast Guard station in the Northeast from 1998 to 2006. He also stated that while on active duty he responded to the attacks on the World Trade Center in September 2001 and

¹ The DD 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 M1900.4.

was assigned to the Sea Marshall Team from 2003 to 2005.

Finally, the applicant addressed the delay in submitting his application. He stated that the errors occurred in June 2006 and that he discovered them on September 11, 2022. He argued that the Board should find it in the interest of justice to consider his application because he only recently discovered the errors after speaking with former shipmates.

SUMMARY OF THE RECORD

The applicant enlisted in the regular Coast Guard on June 23, 1998, and was honorably discharged and released into the Reserve on July 22, 2002. As a reservist, he performed two years of extended active duty (EAD) from March 1, 2003, through February 28, 2005, working in the bridge inspections division. Upon completing the EAD contract, the applicant continued serving in the Reserve until he was discharged on May 7, 2006.

The DD 214 that the applicant received upon his discharge from EAD on February 28, 2005, shows that he had received the following awards and medals, including those earned during his first enlistment:

- Coast Guard Unit Commendation Award
- Commandant's Letter of Commendation
- National Defense Service Medal
- Two Coast Guard Good Conduct Medals
- Two Coast Guard Meritorious Team Commendation Ribbons
- Two Coast Guard Special Operations Service (SOS) Ribbons, issued September 26, 2000, and October 30, 2003
- Transportation 9/11 Medal

In addition to the medals and awards listed on the applicant's two DD 214s, his Member Information Sheet provided by the Coast Guard shows that he also received the following medals and awards:

- GWOTSM, issued January 30, 2005
- Coast Guard Achievement Medal, April 21, 2005
- A second Coast Guard Unit Commendation Ribbon, issued January 3, 2006
- A third Coast Guard Meritorious Team Commendation Ribbon, issued August 31, 2022

VIEWS OF THE COAST GUARD

On September 4, 2023, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant partial 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 stated that the application is untimely but recommended granting partial relief

because the applicant proved that his DD 214 does not contain all of the medals and awards that he is eligible to receive.

With regards to the applicant's request for the DOT 9/11 medal, the JAG argued that relief should be denied because the medal is already listed on the DD 214 that he received on February 28, 2005.

The JAG argued that the applicant's request to add the Secretary's Outstanding Unit DOT Gold with "O" Device for 9/11 to his DD 214 should be denied. The JAG stated that this award was intended to be awarded to the Coast Guard as a whole, and as such, the Commandant authorized only a ribbon bar with a gold frame and it is known as the Secretary's Outstanding Unit Award. Therefore, the JAG recommended that the applicant's record be corrected to show that he earned the DOT Secretary's Outstanding Unit Award Ribbon.

The JAG argued that the applicant's request for the two SOS Ribbons should be denied. The JAG noted that recommendations for the SOS Ribbon must be submitted in writing to the Area Commander or the Commandant via the chain of command and must include a roster of the members recommended for the award. The JAG argued that the applicant did not provide any evidence that he was included on his command's award recommendation roster for the first SOS Ribbon. In addition, the JAG argued that the applicant did not provide any evidence that he was part of the Sea Marshall program, and there is nothing in the applicant's record to substantiate his claim that he is eligible the award.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 12, 2023, the BCMR sent the applicant a copy of the Coast Guard's recommendation and invited him to submit a response. The Board did not receive a response.

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.1 of the Coast Guard Military Medals and Awards Manual, COMDTINST M1650.25D, issued in May 2008, states that the DOT 9/11 Medal was authorized by the Secretary of Transportation on February 11, 2003, and is awarded to employees of the Department of Transportation and private citizens for meritorious service resulting from unusual and outstanding achievement in response to the attacks on September 11, 2001.

Chapter 5.A.14 of the manual states that the GWOTSM was established by Executive Order in 2003 and that there are two eligibility periods: September 11, 2001, through January 30, 2005, and from January 30, 2005, to a future date to be determined. Eligibility requirements from

September 11, 2001, to January 30, 2005, are as follows:

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(1) 11 September 2001 to 30 January 2005. Awarded to all Coast Guard active duty and reserve members on active duty during the eligibility period. To qualify, members must have served on active duty for a period of not less than 30 consecutive days or 60 non-consecutive days following initial accession point training. Service while assigned to training duty as a student, cadet, officer candidate, and DUINS, does not count toward eligibility. Service while assigned to training duty as a student, cadet, officer candidate, and DUINS, does not count toward eligibility.

Enclosure 1 to the awards manual states that the Department of Transportation Outstanding Unit Award was authorized by the Secretary of Transportation on November 3, 1994. Enclosure 4 states that the award was presented to specific units for their outstanding performance of duty in New York Harbor following the terrorist attack on the World Trade Center on September 11, 2001. The applicant's unit is listed as one of the units eligible for the award, and his name appears on a list of eligible personnel that was provided by the Medals and Awards section at PSC.

Chapter 5.A.20 of the awards manual 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.20.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. Participants in the Sea Marshall Program from September 11, 2001 – TBA are eligible for the ribbon.

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.² The applicant was discharged from the Coast Guard on February 28, 2005, and submitted his application to the Board on October 13, 2022, more than seventeen years after he was discharged. The preponderance of the evidence shows that the applicant knew of the alleged error in his record in 2005, and his application is untimely. However, the JAG and the Board have identified errors in the applicant's record which should be corrected so the Board will waive the statute of limitations.
3. The applicant alleged that his record is erroneous because it does not accurately reflect all of the medals and awards show that he received during his time in the Coast Guard. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in the military record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.³ 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."⁴
4. The applicant argued that his DD 214 should be corrected to show that he earned the DOT 9/11 Medal. His record contains a DD 214 that he received upon his separation on February 28, 2005, and Block 18 states that he received the Transportation 9/11 Medal. Accordingly, the applicant's request to have the DOT 9/11 Medal listed on his DD 214 should be denied because the medal is already listed on his DD 214.
5. The applicant asked the Board to correct his DD 214 to show that he received the GWOTSM. The Board notes that the medal is not listed on his DD 214, but it is listed on his member information sheet which was submitted to the Board by the JAG. The member

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

³ 33 C.F.R. § 52.24(b); *see* Docket No. 2000-194, at 35-40 (DOT BCMR, Apr. 25, 2002, approved by the Deputy General Counsel, May 29, 2002) (rejecting the "clear and convincing" evidence standard recommended by the Coast Guard and adopting the "preponderance of the evidence" standard for all cases prior to the promulgation of the latter standard in 2003 in 33 C.F.R. § 52.24(b)).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

information sheet shows that the medal was issued to the applicant on January 30, 2005. The applicant was separated from the Coast Guard on February 28, 2005, so the medal should have been included on his DD 214. Accordingly, the Board will order the Coast Guard to correct the applicant's DD 214 to show that he earned the GWOTSM.

6. The applicant alleged that his DD 214 should be corrected to show that he received the Secretary's Outstanding Unit DOT Gold with "O" Device for 9/11. The record shows that during his first enlistment he was assigned to a unit in the Northeast area of the United States from January 20, 2000, to July 22, 2002, and Enclosure 4 to the Medals and Awards Manual states that the award was presented to specific units for their outstanding performance of duty in New York Harbor following the terrorist attack on the World Trade Center on September 11, 2001. The applicant's unit is listed as one of the units eligible for the award, and his name appears on a list of eligible personnel that was provided by the Medals and Awards section at PSC. Accordingly, the applicant has proven by a preponderance of the evidence that he is eligible for the medal and the Board will order the Coast Guard to correct his DD 214 to show that he received the award.

7. The applicant asked the Board to correct his DD 214 to show that he received the SOS ribbon for his participation in Coast Guard operations on 9/11. The record shows that he was assigned to a unit in the Northeast from January 20, 2000, to July 22, 2002, and his DD 214 documenting his service from 1998 to 2002 includes an SOS ribbon. Moreover, his member information sheet shows that he has already received two SOS ribbons, and the second of his two SOS ribbons was issued on October 30, 2003. Therefore, the preponderance of the evidence shows that he already received the SOS Ribbon for his participation in Coast Guard operations in response to 9/11 and it is shown on his DD 214. Accordingly, his request for this ribbon should be denied.

8. Finally, the applicant asked the Board to correct his record to show that he earned the SOS Ribbon for his participation in the Sea Marshall Program from 2003 to 2005. Enclosure 19 to the Medals and Awards Manual states that the SOS Ribbon was awarded to participants in the Sea Marshall Program from "September 1, 2001 – TBA", but there is nothing in the applicant's record to show that he was part of the program; nor did he submit any evidence that he was part of the program. Moreover, the JAG stated that there is nothing in the applicant's record to show that he participated in the Sea Marshall Program. Accordingly, he has failed to prove by a preponderance of the evidence that he is eligible to receive an SOS Ribbon for participation in the Sea Marshall Program.

9. Accordingly, the applicant's request for the DOT 9/11 Medal and two SOS Ribbons should be denied. His request to add the Outstanding Unit Award to his DD 214 should be granted. In addition, the Coast Guard shall ensure that any of the medals and awards listed on his Member Information Sheet, such as the GWOTSM, are included on his DD 214 if they were awarded for his performance of duty prior to February 28, 2005.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former BM3 [REDACTED] [REDACTED] USCG, for the correction of his military record is granted in part. The Coast Guard shall correct his record to show that he is eligible to receive the DOT Outstanding Unit Award. The Coast Guard shall also ensure that his DD 214 reflects his GWOTSM and all other medals and awards listed on his Member Information Sheet that were awarded for his performance of duty prior to February 28, 2005.

January 18, 2024

[REDACTED] Digitally signed by [REDACTED]
Date: 2024.02.01 09:09:07 -05'00'

[REDACTED]

[REDACTED] Digitally signed by [REDACTED]
Date: 2024.02.01 07:23:54 -07'00'

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