

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-003

██████████ ██████████ ██████████
QM3 (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 February 24, 2024, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated August 29, 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 Quartermaster third class (QM3), asked the Board to correct his record to show that he received two Coast Guard Meritorious Unit Commendations (CGMUC) during his time aboard the Coast Guard Cutter (CGC) Mellon in Vietnam. He argued that he is eligible for the commendations because they were awarded to the Mellon crewmembers by the U.S. Navy between February and July of 1970. The applicant stated that during his deployment in Vietnam, the Mellon was awarded the medals for maintaining communications with a U.S. Navy chartered cargo ship that had been hijacked by mutineers in Cambodian waters.

The applicant stated that he discovered the error on February 14, 2023, and argued that the Board should find it in the interest of justice to consider his application because he only recently discovered that his former cutter had received the awards. Finally, he stated that having these awards listed on his DD Form 214 would allow him to wear the ribbons on his Coast Guard uniform during ceremonies.

SUMMARY OF THE RECORD

The applicant served on active duty in the Coast Guard from February 28, 1969, to February 27, 1973. His DD Form 214 shows that he received an honorable discharge and the following medals and awards:

Coast Guard Good Conduct Medal for the period ending February 27, 1973
Vietnam Service Medal with one bronze star
Republic of Vietnam Campaign Medal with Device
National Defense Medal

The applicant's record shows that he was assigned to the CGC Mellon from June 10, 1969 to November 1, 1970, and Coast Guard records show that the cutter participated in a Western Pacific (WESTPAC) deployment with Task Force 115 from January 10, 1970 to July 5, 1970. There is nothing in the applicant's record indicating that the CGC Mellon received any Navy Meritorious Unit Commendations (NMUC).

VIEWS OF THE COAST GUARD

On July 10, 2024, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant alternative 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 recommended that the Board grant alternative relief because the applicant is eligible to receive one NMUC.¹ PSC argued that the applicant is eligible to receive one NMUC because he was assigned to the CGC Mellon from June 10, 1969 through November 1, 1970, and the Medals and Awards Manual shows that the CGC Mellon was awarded the NMUC for its service with Task Force 115 from February 3, 1970 to June 16, 1970. PSC argued that the applicant is not eligible to receive a second NMUC because there are no further entries in the awards manual of the NMUC being awarded to the crew of the CGC Mellon during the applicant's period of service.

PSC noted that Enclosure (8) of the Medals and Awards Manual shows that Task Force 115 was awarded the NMUC twice during the Vietnam War. PSC acknowledges that CG Pacific Area's (PACAREA) website lists the CGC Mellon as two-time recipient of the NMUC, but alleged that Coast Guard award records do not support that statement.²

APPLICABLE LAW AND REGULATIONS

Chapter 1.E. of the Commandant's instructions for preparing the DD Form 214 states that block 13 of a DD Form 214 should show "all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service."

¹ PSC noted that the applicant alleged that his cutter received two CGMUCs from the U.S. Navy in 1970, but PSC stated that the Navy only issued the NMUC to certain Coast Guard units in 1969 and 1970. PSC stated that the applicant likely wants his record corrected to show that he received two NMUC medals.

² The CGC Mellon's official web page states that it saw extensive service during the conflict and was twice awarded the Meritorious Unit Commendation during the Vietnam War. <https://www.pacificarea.uscg.mil/Our-Organization/Cutters/cgcMellon/History/> (last visited on August 8, 2024). PSC stated that the Historian's office has been alerted of this discrepancy and potential source of misinformation.

COMDTINST M1650.25B was issued on February 18, 1999, and published a change to the then current Medals and Awards Manual. Chapter 3.B.6 of the manual states that the Navy Meritorious Unit Commendation (NMUC) may be awarded by the Secretary of the Navy to any unit of the Navy or Marine Corps which has distinguished itself, under combat or non-combat conditions, by either valorous or meritorious achievement which renders the unit outstanding compared to other units performing similar service but not sufficient to justify the award of the Navy Unit Commendation. This award may also be conferred upon Coast Guard personnel serving with a cited unit and meeting eligibility criteria.

Enclosure (8) to COMDTINST M1650.25E, the current Coast Guard Medals and Awards Manual, states that the NMUC was awarded to the Commander of Task Force 115 from December 19, 1969 to November 16, 1970, and November 23, 1970 to March 1, 1972. The manual states that the crew of the CGC Mellon was only eligible for the NMUC for its service from February 3, 1970 to June 16, 1970.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 24, 2024, the BCMR sent the applicant a copy of the Coast Guard's recommendation and invited him to submit a response within 30 days. The Board has not received 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 over this matter under 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that he has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.³ However, the Board is free to waive its statute of limitations "if it finds it to be in the interest of justice."⁴ The applicant was discharged in 1973 and alleged that he discovered the error in his record in 2023 and submitted an application to the Board in February 2024. As discussed below, the Board finds there is an error in the applicant's record warranting a grant of partial relief. As such, the Board finds it is in the interest of justice to waive the statute of limitations.

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

⁴ 10 U.S.C. § 1552(b); *see Baxter v. Claytor*, 652 F.2d 181, 186 (noting that "the time limit contained in section 1552 itself is not an absolute bar to the Board's consideration" of an application); *see also McFarlane v. Sec'y of Air Force*, 867 F. Supp. 405, 410 (E.D. Va. 1994) ("all is not lost if an application is untimely, for the Board still 'may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.'").

3. The applicant asked that his record be corrected to reflect two NMUCs that his cutter received from the Navy in 1970. 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 his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁵ 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."⁶

4. The applicant's record shows that he served aboard the CGC Mellon from June 10, 1969 to November 1, 1970, and that the cutter was part of Task Force 115 in Vietnam. The Board finds that he is eligible to have his record corrected to show that he received one NMUC, because the Medals and Awards Manual states that the NMUC was awarded to the CGC Mellon for its service from February 3, 1970 to June 16, 1970, and the record shows that the applicant was aboard the CGC Mellon during this period. The Manual shows that Task Force 115 received two NMUCs, but it also specifies that the CGC Mellon received only one NMUC. The Board notes the CG PACAREA's website lists the CGC Mellon as a two-time recipient of the NMUC; however, the Board finds that the Coast Guard award records, which reflect the Mellon only received one such award, to be the more probative evidence in this case.

5. The Board finds that the applicant has failed to prove by a preponderance of the evidence that he is eligible to receive two NMUCs, but has proven that he is eligible for one NMUC. Accordingly, his DD Form 214 should be corrected to show that he received one NMUC for his service aboard the CGC Mellon from June 10, 1969 through November 1, 1970.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁵ 33 C.F.R. § 52.24(b).

⁶ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

ORDER

The application of former QM3 [REDACTED] [REDACTED] USCG, for correction of his military record is granted in part. The Coast Guard shall prepare and send him a DD Form 215 correcting his record to show that he earned one Navy Meritorious Unit Commendation for his service aboard the CGC Mellon from June 10, 1969 through November 1, 1970.

August 29, 2024

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