


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

Application for Correction of the
Coast Guard Record of:

BCMR Docket No. 2024-028


PS2 (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 December 31, 2019, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision dated January 16, 2025, 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 reservist and port security specialist second class (PS2) who was honorably discharged from the Coast Guard on June 22, 2006, asked the Board to correct his record to show that he received the Global War on Terrorism Expeditionary Medal (GWOTEM) and a Service Star.¹

The applicant argued that the GWOTEM and the Service Star should be added to his record because he served on active duty during Operation Enduring Freedom. He argued that he is eligible for them because the GWOTEM was authorized by Executive Order 13289 and the Service Star was authorized by Department of Defense Instruction 1348.33.

The applicant stated that he discovered the alleged errors in his record on June 1, 2023 and argued that the Board should consider his application because the GWOTEM and the Service Star were authorized after he separated from the Coast Guard.

SUMMARY OF THE RECORD

¹ For subsequent awards of a given medal, a gold/bronze (one to four subsequent awards) or silver star (in lieu of five gold/bronze stars) is issued in lieu of an additional medal and must be so specified in the citation. Chapter 1.E.4.a of the Coast Guard Medal and Awards Manual, COMDTINST M1650.25D.

The applicant's record shows that as a reservist he served on active duty for approximately 49 days from September 14, 2001 to November 2, 2001 in support of Operation Noble Eagle in New York City. His record also shows that he served on active duty as a reservist for approximately 80 days from January 11, 2002 to March 31, 2002 in support of SOUTHCOM (U.S. Southern Command) operations in Guantanamo Bay, Cuba.

The applicant's record also contains a set of Military Temporary Additional Duty (TDY) Orders showing that he was ordered to depart his Port Security Unit (PSU) on January 15, 2002 for a 175-day tour of duty in Guantanamo Bay, Cuba.

The applicant was honorably discharged from the Coast Guard Reserve on June 22, 2006.

VIEWS OF THE COAST GUARD

On October 4, 2024 a judge advocate (JA) of the Coast Guard submitted an advisory opinion and adopted the findings and analysis in a memorandum submitted by the Commander, Personnel Service Center (PSC). The JA recommended that the applicant's request to have the GWOTEM added to his record should be granted, but that his request for a Service Star should be denied.

The JA argued that the applicant is eligible for the GWOTEM because his DD Form 214 and TDY orders show that he was deployed to Guantanamo Bay, Cuba in support of SOUTHCOM operations for 80 days from January 11, 2002 to March 31, 2002. The JA stated that his service in Cuba makes him eligible for the medal because Chapter 5.1 of the Medals and Awards Manual states that the area of eligibility (AOE) for the GWOTEM is limited to those personnel deployed abroad and directly supporting the operation for at least 30 consecutive days or 60 nonconsecutive days.

The JA claimed that the applicant is not eligible for the GWOTEM for his service during Operation Noble Eagle in New York City in 2001. The JA argued that although the applicant was deployed for 49 days from September 14, 2001 to November 2, 2001, deployments to New York do not fall under the AOE outlined in the awards manual because New York City is not abroad.

The JA recommended that partial relief be granted by providing the applicant a DD Form 215² reflecting the award of the GWOTEM for service performed from January 2002 to March 2002. However, the JA recommended that his request for a Service Star should be denied because his deployment to New York is not eligible for the GWOTEM.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 18, 2024 the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. The Board did not receive a response.

² All separations effective on or before December 31, 2014 require a Correction to DD Form 214, Certificate of Release or Discharge from Active Duty, DD Form 215 for corrections. COMDTINST 1900.4E

APPLICABLE LAW AND REGULATIONS

Chapter 5.A.13 of COMDTINST M1650.25D, the Coast Guard Medals and Awards Manual that went into effect in 2008 and the first awards manual to contain the GWOTEM, states that the medal was established by Executive Order in 2003. Eligibility requirements from September 11, 2001 to January 30, 2005 are as follows:

a. Eligibility for this award began on September 11, 2001 and continues to a future date to be determined by the Secretary of Defense. The area of eligibility (AOE) is limited to those personnel deployed abroad in Operation ENDURING FREEDOM (OEF) and Operation IRAQI FREEDOM (OIF) in the following specific geographic AOE: Afghanistan (eligibility ended on April 30, 2005 with authorization for the ACM), Algeria, Bahrain, Bosnia-Herzegovina, Bulgaria (Bourgas), Chad, Colombia, Crete, Cuba (Guantanamo Bay), Cyprus, Diego Garcia, Djibouti, Egypt, Eritrea, Ethiopia, Georgia, Hungary, Iran, Iraq (eligibility ended on April 30, 2005 with authorization for ICM), Israel, Jordan, Kazakhstan, Kenya, Kosovo (only specified GWOT operations not associated with operations qualifying for the Kosovo Campaign Medal), Kuwait, Kyrgyzstan, Lebanon, Mali, Mauritania, Niger, Oman, Pakistan, Philippines, Qatar, Romania (Constanta), Saudi Arabia, Somalia, Syria, Tajikistan, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Yemen, the Mediterranean Sea for Maritime Intercept Operations (boarding and searching), and that portion of the Arabian Sea north of 10 degrees North latitude and west of 68 degrees East longitude, BabEl Mandeb, Gulf of Aden, Gulf of Aqaba, Gulf of Oman, Gulf of Suez, that portion of the Mediterranean Sea east of 28 degrees East longitude, Persian Gulf, Red Sea, Strait of Hormuz, and Suez Canal.

b. Eligibility requirements. Awarded to military personnel under the criteria below:

(1) Must be bona fide members of a unit participating in or directly supporting the operation for 30 consecutive days in the AOE or for 60 non-consecutive days provided this support involves entering the operation's AOE or meet one or more of the following specific criteria:

- (a) Be engaged in actual combat against the enemy or under circumstances involving grave danger of death or serious bodily injury from enemy action, regardless of time in the AOE.
- (b) Be killed, wounded or injured requiring medical evacuation from the AOE while participating in designated operations.
- (c) Be participating as a regularly assigned aircrew member flying sorties into, out of, within, or over the AOE in direct support of Operations Enduring Freedom and/or Iraqi Freedom. Each day that one or more sorties are flown in accordance with the criteria shall count as one day toward the 30 consecutive or 60 non-consecutive day requirement.

Chapter 13.c.1 of the manual states that subsequent awards of the GWOTEM are not authorized; therefore, service stars are not authorized.

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 Although he was discharged in 2002, he stated that he did not become aware of the error in his Coast Guard record until June 1, 2023. Therefore, the Board finds that his application is timely.

3. The applicant asked that his record be corrected to reflect the GWOTEM and a Service Star denoting the award of a second medal. 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.⁴ 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."⁵

4. The applicant's record shows that he served on active duty for approximately 49 days from September 14, 2001 to November 2, 2001 in support of Operation Noble Eagle in New York City. The Board finds that he is not eligible to receive the GWOTEM for this period of service because New York City is not one of the AOEs eligible for the GWOTEM within Chapter 5.A.13 of the Medals and Awards Manual. Accordingly, the Board finds that the applicant has failed to prove by a preponderance of the evidence that he is eligible to receive the GWOTEM for this period of service and his request should be denied.

5. The applicant's record also shows that he served on active duty as a reservist for approximately 80 days from January 11, 2002 to March 31, 2002 in support of SOUTHCOM operations in Guantanamo Bay, Cuba. The JA recommended that he receive the GWOTEM for this period of service, and the Board agrees. The Board finds that he is eligible to receive the GWOTEM for his service in Cuba because Chapter 5.A.13.a of the Medals and Awards Manual states that the AOE for the GWOTEM includes Guantanamo Bay, Cuba and those personnel deployed abroad and directly supporting the operation for at least 30 consecutive days. Accordingly, the Board finds that the applicant has proven by a preponderance of the evidence that he is eligible to receive the GWOTEM for his service in Cuba.

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

⁴ 33 C.F.R. § 52.24(b).

⁵ *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 has proven by a preponderance of the evidence that he is eligible to receive a GWOTEM for his service in Cuba but has failed to prove that he is eligible to receive a Service Star denoting a second award of the GWOTEM for his service in New York City in support of Operation Noble Eagle. Accordingly, his DD Form 214 should be corrected to show that he received the GWOTEM for his service in Guantanamo Bay, Cuba from January 11, 2002 to March 31, 2002.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former PS2 [REDACTED], USCGR, for correction of his military record is granted as follows. His DD Form 214 shall be corrected to show that he received the GWOTEM for his service in Guantanamo Bay, Cuba from January 11, 2002 to March 31, 2002. All other requests are denied.

January 16, 2025

