

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

Application for Correction of the
Coast Guard Record of:

BCMR Docket No. 2024-102


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

This final decision dated March 27, 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 Lieutenant who was separated from active duty in the Coast Guard on June 30, 2017, asked the Board to correct his record to show that he received the Defense Superior Service Medal (DSSM) and the Defense Meritorious Service Medal (DMSM). He alleged that the medals are missing from his records. In support of his request, the applicant submitted a draft award citation for the DSSM and the DMSM as well as a copy of an Officer Evaluation Report (OER) covering the period from June 1, 2014 to May 31, 2015.

The applicant stated that he discovered the alleged errors in his record in 2010 but did not argue why the Board should consider his application in light of the fact that he discovered the error more than fourteen years ago.

SUMMARY OF THE RECORD

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 (TAD)

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 January 31, 2025 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 medals added to his record be denied.

PSC recommended that relief be denied because there is no record in the applicant's official military personnel file (OMPF) of the DSSM or DMSM being awarded. Moreover, the PSC argued, the applicant provided what appears to be draft citations for a DSSM and DMSM, but did not provide a signed citation or award nomination form.

The PSC also argued that relief should be denied because the applicant did not provide any evidence to support the assertion that his service rose to the level that justified issuing him these two awards. Accordingly, PSC argued that the applicant failed to prove that the presumptive decision not to award him the DSSM or DMSM was erroneous or unjust.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 7, 2025 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.

APPLICABLE LAW AND REGULATIONS

Article 3.2 of The Manual of Military Decorations and Awards, DoD 1348.33-M, issued in September 1996, states that the DSSM is the second highest DoD joint personal award and awarded by the Secretary of Defense to any member of the Armed Forces who rendered superior meritorious service in a position of significant responsibility within the DoD. The DSSM is the DoD Joint personal medal equivalent of the Legion of Merit and should be awarded accordingly.

Article 3.3 of the Manual states that the DMSM is the third-highest DoD joint personal award and awarded to any member of the Armed Forces who rendered outstanding non-combat meritorious achievement.

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 submissions, 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.¹ The applicant was separated from the Coast Guard on June 30, 2017, and did not submit his application to the Board until September 7, 2023. Moreover, he did not explain the delay in discovering the error nor did he argue why the Board should waive the statute of limitations and consider his request. Thus, his application is untimely.

2. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.² 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”³ 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.”⁴ 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 did not explain or justify why he waited six years after his separation to request correction of his military record. He failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.
- b. The applicant has not submitted any evidence of error or injustice. His record is correct because he did not submit anything to persuade the Board that he was awarded the DSSM or DMSM, nor did he submit any probative evidence that he is eligible to receive them. The Board finds that the draft award citations submitted by the applicant are just that – drafts – and do not prove that he was recommended for or received the medals.
- c. The applicant has failed to overcome the presumption that that his record is correct and that his record contains all of the awards and medals he was eligible to receive during his Coast Guard service.
- d. Accordingly, the Board will not excuse the application’s untimeliness. His request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

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

² *Id.*; 33 C.F.R. 52.22.

³ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁴ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

ORDER

The application of former LT [REDACTED], USCG, for correction of his military record is denied.

March 27, 2025

