

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

Application for Correction
of Coast Guard Record of:

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

BCMR Docket
No. 2002-118

FINAL DECISION

This is a proceeding under section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on June 24, 2002, upon the Board's receipt of the applicant's complete application for the correction of his military record.

The final decision, dated April 8, 2003, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant enlisted in the Coast Guard on December 10, 1991, and he was discharged on December 7, 1995. On March 27, 2002, a Texas District Court, upon petition, entered an order changing the applicant's name.

The applicant asked the Board to change the name on his DD Form 214 (discharge certificate from the Coast Guard) to that recently ordered by the Texas Court.

Views of the Coast Guard

On October 22, 2002, the Chief Counsel of the Coast Guard recommended that the Board deny the applicant's request because he failed to prove an error or injustice in his military record.

The Chief Counsel stated that the applicant's military record, including his DD 214, should remain undisturbed as an accurate reflection of the applicant's service in the Coast Guard. He stated that the applicant enlisted and served in the Coast Guard under the name as it appears in his military record. The Chief Counsel further stated the following:

For historical purposes, the Coast Guard has an interest in maintaining the accuracy of its records. The data and information contained in those records should actually reflect the conditions and circumstance that

existed at the time the records were created. Moreover, under the principle of dual sovereigns and federal supremacy, neither the Coast Guard nor the BCMR is legally required to recognize a Texas District Court ordering Applicant's name change.

According to the Chief Counsel, the 2002 court order has no effect on the discharge and separation papers that the applicant received from the Coast Guard in 1995.

Applicant's Reply to the Views of the Coast Guard

On October 28, 2002, a copy of the Coast Guard views was mailed to the applicant inviting him to submit a reply. He did not respond.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and of the Coast Guard, the applicant's military record, and applicable law:

1. The Board has jurisdiction of the case pursuant to section 1552 of title 10 of the United States Code. It is timely because it was filed within three years of the court order changing the applicant's name.

2. First and foremost, the applicant has not established that the Coast Guard committed any error or injustice regarding his name as it appears on the DD Form 214 that was issued to him in 1995. Nor has the applicant produced evidence that the 2002 court order regarding his name change has any effect on events in 1995. Finally, even if relevant, the applicant produced no evidence that he is currently encountering prejudice by having his DD Form 214 reflect a name different than that ordered by the Court.

3. Presenting the order from the court together with his DD Form 214 should be sufficient evidence that the applicant served in the Coast Guard under a different name but is in fact that same person as identified in the court order.

4. Accordingly, the application should be denied.

ORDER

The application of former XXXXXXXXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is denied.

James K. Augustine

Quang Nguyen

Dorothy J. Ulmer