

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2012-214



FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case after receiving the completed application on August 23, 2012, and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated May 30, 2013, 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, who is serving on active duty, asked the Board to correct all of his military records by adding "Jr." to his name. He submitted copies of his birth certificate and his Social Security card, both of which include the "Jr." However, his military records, from his 1993 college transcript at the Coast Guard Academy forward, do not include the "Jr."

VIEWS OF THE COAST GUARD

On January 30, 2013, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended granting alternative relief.

The JAG stated that the applicant has proved by a preponderance of the evidence that his legal name includes a "Jr." but argued that use of such a suffix is considered optional and correcting all of the applicant's military records since 1993 to include it would be unduly burdensome. The JAG noted that the applicant was not using the suffix when he became a cadet at the Academy, and there is no evidence that he has attempted to correct the matter previously. Therefore, the JAG recommended that the Board make a finding that the applicant's legal name includes the suffix "Jr." and should appear with that suffix in future military records "provided that [he] signs and writes his name with 'Jr.' after his last name on all future military records." The JAG stated that the Board's decision should be entered in the applicant's PDR and noted that

this recommended relief is comparable to the relief granted in a prior case, BCMR Docket No. 2002-036.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 8, 2013, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within thirty days. The Board received no 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 submissions, and applicable law:

1. The Board has jurisdiction over this matter pursuant to 10 U.S.C. § 1552. The application is timely because the applicant has remained on active duty since the error first occurred.¹

2. The applicant asked the Board to correct his name in all his military records by adding the suffix "Jr." to it. The Board begins its analysis in every case by presuming that the disputed information in the member's military record is correct, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.² Absent evidence to the contrary, the Board presumes that Coast Guard officials have carried out their duties "correctly, lawfully, and in good faith."³

3. The applicant has proven by a preponderance of the evidence that his legal name since he was born has included the suffix "Jr." but he apparently failed to use the suffix heretofore during his career. Although the applicant now wants his legal name to appear on all of his military records, the Board agrees with the Coast Guard that correcting the applicant's name on every military record already created would be unduly burdensome. However, his name should be corrected in the Coast Guard's electronic records, such as Direct Access, and his legal name, with the suffix "Jr." should be used in future military records. Although the JAG argued that the correction should be contingent upon the applicant writing and *signing* his name with the "Jr." hereinafter, the Board finds that requiring the applicant to change his signature to incorporate the "Jr." is not appropriate. A person's signature is whatever mark a person habitually uses on documents to execute or authenticate them;⁴ it can be an X, an illegible scrawl, or a mere loop-de-loop⁵ and certainly need not spell out the signer's exact legal name. Therefore, while the

¹ *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994) (holding that, under § 205 of the Soldiers' and Sailors' Civil Relief Act of 1940, the BCMR's three-year limitations period under 10 U.S.C. § 1552(b) is tolled during a member's active duty service).

² 33 C.F.R. § 52.24(b).

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁴ *Joseph Denunzio Fruit Co. v. Crane*, 79 F. Supp. 117, n16 (D.C. Cal. 1948), *aff'd* 188 F.2d 569 (9th Cir. 1951), *cert. denied* 342 U.S. 820, 72 S. Ct. 37, 96 L. Ed. 620 (1951); 80 C.J.S. Signatures § 1 (Definitions).

⁵ Rachel Weiner, *Will Jack Lew Change His Crazy Signature?*, WASHINGTON POST (Jan. 9, 2013).

applicant should use the “Jr.” when typing or printing his full name since he intends to use it hereafter, he need not change his signature.

4. The JAG recommended that the Board order the Coast Guard to enter a copy of the decision affirming the use of the applicant’s legal name with the suffix “Jr.” in his military record. Therefore, the Board shall remind the Coast Guard that pursuant to 33 C.F.R. § 52.65(c), a copy of every final decision of the Board must be placed in the military record of the applicant “[u]nless doing so is likely to nullify the relief granted.” Pursuant to this regulation, a copy of this final decision should be placed in the applicant’s military record.

5. Accordingly, partial relief should be granted. The Coast Guard shall hereinafter use the suffix “Jr.” in the applicant’s name in his military records and correct its electronic databases to include the suffix in his name.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of [REDACTED] USCG, for correction of his military records is granted in part as follows. The Coast Guard shall correct his name in its electronic databases to include the suffix "Jr." because since birth his legal name has included that suffix, and the Coast Guard and he shall include the suffix "Jr." when typing or printing his name hereinafter in his military records. A copy of this decision must be entered in his military record in accordance with 33 C.F.R. § 52.65(c).

