

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2013-051**



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**FINAL DECISION**

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case upon receipt of the applicant's completed application on January 11, 2013, 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 September 26, 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 asked the Board to correct the amount of time in service and the awards and training reflected on his August 29, 2003, discharge form, DD 214. He alleged that the DD 214 is erroneous because it fails to show that

- he has completed 9.9 years of service;
- he earned campaign badges when he was called to active duty after 9/11; and
- he qualified as a Boarding Officer and an EMT (emergency medical technician).

The applicant stated that he did not notice that his DD 214 was incorrect until December 9, 2012, when he was applying for federal jobs and requesting a 5-point veteran's preference based on his active duty service in support of the wars in Iraq and Afghanistan. In support of his allegations, the applicant submitted the following documents:

- A community college certificate dated December 20, 1997, shows that the applicant had successfully completed a course called "Firearms In-Service Training & Qualification – Law Enforcement."
- A community college certificate dated May 29, 1998, shows that the applicant had successfully completed a course called "Emergency Medical Technician (Basic)."

- A Page 7 dated May 4, 1999, states that the applicant had received Ionscan Sample Taker training.
- His DD 214 covering his service from September 29, 1997, through August 29, 2003, shows that upon his release from active duty into the Reserve, he had served 5 years, 11 months, and 1 day on active duty and had zero inactive service. It also shows that he had received various medals and awards and completed, *inter alia*, one day of Board Team Member training and 3 days of TCT Unit training.
- A Letter of Certification signed by the applicant's commanding officer on September 13, 2004, shows that the applicant had qualified as a Boarding Officer.
- Title 10 Involuntary Recall Orders dated September 27, 2004, show that as a reservist, the applicant was recalled to active duty for a year beginning on October 1, 2004.
- A letter from the commanding officer of a North Carolina ammunition terminal dated August 30, 2006, thanks the applicant for his assistance in providing waterside security as part of a joint Army and Coast Guard team.
- An Honorable Discharge Certificate, DD 256CG, dated August 5, 2007, shows that the applicant was discharged on that date from the Coast Guard Reserve.

### VIEWS OF THE COAST GUARD

On July 18, 2013, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant partial relief in this case.

The JAG stated that after the applicant was released from active duty (RELAD) on August 29, 2003, he was recalled and served another two years on active duty from February 2, 2004, through February 1, 2006. Although he should have received a DD 214 upon his discharge in 2006, none was entered in his record. Therefore, the JAG stated, the Board should grant relief by ordering the Coast Guard to issue him a new DD 214 covering his service under Title 10 recall orders. The new DD 214 should reflect all of his awards and certifications, and his prior, August 29, 2003, DD 214 should be amended to include the awards and certifications he earned before August 29, 2003.

The JAG noted that the applicant reasonably should have discovered the errors in his record upon his discharge in 2006, and so his application is untimely. The JAG argued, however, that it is in the interest of justice for the Board to excuse the untimeliness and grant the partial relief recommended above because denying relief "would unjustly deprive the applicant of appropriate recognition for time served in Iraq and Afghanistan."

Regarding the applicant's claim that his DD 214 should show 9.9 years of service, the JAG stated that a reservist's time in the IRR should not be reflected as active duty time on a DD 214. The applicant served about 5.9 years on active duty before he was RELAD in August 2003 and another 2 years on active duty under Title 10 orders, and so his new DD 214 should reflect only about 7.9 years of total active duty.

Regarding the applicant's request for campaign badges and qualifications, the JAG stated that the applicant's receipt of the Coast Guard Global War on Terrorism Service Medal (GWOTSM) and the Department of Transportation (DOT) 9-11 Ribbon should appear in block 13 of his new DD 214, and his qualification as a Board Team Member and EMT should appear in block 14 of the form.

In making this recommendation, the JAG adopted the findings and analysis provided in a memorandum on the case prepared by the Personnel Service Center (PSC). PSC stated that the applicant served 5 years, 11 months, and 1 day on active duty from September 29, 1997, through August 29, 2003, when he was released to the Reserve. Subsequently, he was ordered to active duty and served from February 2, 2004, through February 1, 2006, when he was again released to the Reserve. PSC stated that it has already created a DD 214 for this latter period of active duty. The DD 214 reflects the applicant's receipt of the GWOTSM and the DOT 9/11 Ribbon, as well as the applicant's qualifications as a Boarding Team member and EMT. In block 12, the DD 214 shows that the applicant served 1 year, 11 months, and 29 days of active duty from February 2, 2004, through February 1, 2006; had 5 years, 11 months, and 1 day of prior active duty; and had zero prior inactive service. Upon inquiry, PSC advised the Board that it has not yet entered the DD 214 in the applicant's record in case the Board orders additional corrections of his record.

#### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On July 24, 2013, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 30 days. No response was received.

#### **APPLICABLE REGULATIONS**

DD 214s are completed in accordance with the instructions in Chapter 1.E. of COMDT-INST M1900.4D. Under Chapter 1.B. of the instruction, reservists being released from a period of active duty are entitled to receive a DD 214 unless they are being released "from continuous active duty for training (ADT) less than 90 days." The applicable instructions for completing blocks 12, 13, and 14, which contain information about the member's time in service, decorations and awards, and military education are as follows:

**Block 12a. Date Entered Active Duty This Period.** Enter the date of entry on active duty.

**Block 12b. Separation Date This Period.** Enter the effective date of release/discharge. ...

**Block 12c. Net Active Service This Period.** Enter the years, months, and days of service creditable for basic pay purposes for the period from date entered active duty this period (block 12a) through date of separation (block 12b). ...

**Block 12d. Total Prior Active Service.** Enter the years, months, and days of service creditable for basic pay for all active service prior to the date entered in block 12a. ...

**Block 12e. Total Prior Inactive Service.** Enter the years, months, and days of service creditable for basic pay for inactive service completed prior to the date entered in block 12a. ...

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**Block 13. Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized (all periods of service).**

1. General. Enter all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service. No authorities will be cited. ...

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**Block 14. Military Education.** To assist the former service member in employment placement and job counseling, those formal service schools and in-service training courses captured in PMIS/JUMPS and successfully completed during the period of service covered by the form will be in this block, e.g., medical and dental, electronics, supply administration, personnel, or heavy equipment operations. Enter all course titles, number of weeks, and year completed, from the date entered in block 12a through the date entered in block 12b. [Emphasis added.]

## 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 concerning this matter pursuant to 10 U.S.C. § 1552.
2. Under 10 U.S.C. § 1552(b), an application to the Board must be filed within three years after the applicant discovers the alleged error or injustice in his record. The applicant alleged that he discovered the errors in 2012, but the record shows that the applicant signed and received his DD 214 upon his discharge in 2003. Likewise, he was discharged without a DD 214 in 2006 and so knew he had not received one at that time. Therefore, the preponderance of the evidence shows that his request for correction is untimely.
3. Pursuant to 10 U.S.C. § 1552(b), the Board may excuse the untimeliness of an application if it is in the interest of justice to do so. 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"<sup>1</sup> 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."<sup>2</sup>
4. Regarding the delay of his application, the applicant stated that he did not realize that he needed documentation of his active duty from 2004 to 2006 until he applied for a federal job in 2012 and wanted to claim a veteran's preference. The lack of documentation of his active duty wartime service is apparent upon a cursory review of his record. Therefore, the Board finds that it is in the interest of justice to excuse the untimeliness of the application and consider the case on the merits.
5. The applicant claimed that his 2003 DD 214 should be corrected to show 9.9 years of service as well as campaign badges he earned after he was recalled to active duty in 2004 and his qualifications as a Board Officer and EMT. A DD 214 documents a period of active duty, and the entries must be accurate as of the date of separation from active duty.<sup>3</sup> Unless

<sup>1</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

<sup>2</sup> *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

<sup>3</sup> COMDTINST M1900.4D, Chapter 1.D.2.

expressly authorized, the entries are not cumulative, and DD 214s are not subsequently updated to reflect events after the date of separation.<sup>4</sup> Accordingly, with regard to his August 29, 2003, DD 214, the Board finds the following:

- On August 29, 2003, the applicant had completed exactly 5 years, 11 months, and 1 day on active duty. There are no grounds for changing this DD 214 to reflect military service he performed after the date of separation.
- According to the Coast Guard, the applicant is entitled to wear the DOT 9/11 Ribbon. Under Chapter 5.A.18. of the Medals and Awards Manual, the ribbon could be awarded to “an individual serving in any capacity within the DOT, Merchant Marines, or other civilians, for an act or service that contributed to recovery from the attacks of 11 September 2001, force protection following the attacks, or efforts that directly contributed to the increased infrastructure security effort between 11 September 2001 and 11 September 2002.” The Coast Guard has failed to submit the date that the applicant was awarded the ribbon, and so whether he received it prior to his release from active duty on August 29, 2003, is unclear. However, the applicant clearly performed the service that earned him the ribbon prior to his release. Therefore, the Board finds that the preponderance of the evidence shows that his August 29, 2003, DD 214 should be corrected to show that he is entitled to wear the ribbon.
- According to the Coast Guard, the applicant is entitled to wear the GWOTSM, which was established by Executive Order 13289 on March 12, 2003. Any member or reservist who served on active duty for at least 30 consecutive days between September 11, 2001, and January 30, 2005, is eligible to wear this medal, and Area Commanders had authority to award it. The Coast Guard did not submit the date the applicant was awarded the medal, but since he performed the service that earned him the medal prior to his release from active duty on August 29, 2003, the Board finds that the 2003 DD 214 should be corrected to show that he is entitled to wear it.
- Regarding the applicant’s request that his 2003 DD 214 show his qualification as a Boarding Officer, the Board notes that block 14 of this DD 214 already shows that he completed training as a Boarding Team Member. Therefore, the Board finds that no correction of his 2003 DD 214 is warranted in this regard.
- Regarding the applicant’s request that his 2003 DD 214 show his certification as an EMT, the Board finds that the preponderance of the evidence shows that the applicant successfully completed basic EMT training in 1998, and the DD 214 PSC issued for his release from active duty on February 1, 2006, includes a notation of EMT certification in block 14 (as continued in block 18). Therefore, the Board finds that the applicant’s 2003 DD 214 should be corrected to reflect his EMT training as well.

6. The applicant asked the Board to document his two years on active duty from February 2, 2004, through February 1, 2006. PSC has prepared a DD 214 showing that the

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<sup>4</sup> *Id.*

applicant completed 1 year, 11 months, and 29 days of service during that period; that he had performed 5 years, 11 months, and 1 day of prior active duty; and that he had performed zero prior inactive service. Two of these entries are erroneous, as explained below:

- According to PPCINST M1000.2B, creditable time for pay purposes is calculated by subtracting the date of entry from the date of separation and adding one “inclusive day.” Therefore, the applicant’s active duty between February 2, 2004, and February 1, 2006, is properly calculated as follows:<sup>5</sup>

$$\begin{array}{r}
 2006 \quad 02 \quad 01 \text{ (date of separation; all months equals 30 days and years are 12 months)} \\
 - 2004 \quad 02 \quad 02 \text{ (date of entry on active duty)} \\
 \hline
 01 \quad 11 \quad 29 \\
 + 01 \text{ (inclusive day)} \\
 \hline
 02 \quad 00 \quad 00
 \end{array}$$

Therefore, the “net active service this period” in block 12.c. of this DD 214 should be exactly two years.

- Chapter 1.E. of COMDTINST M1900.4D states that block 12.e. of a DD 214 should show all of an applicant’s prior creditable inactive service. The applicant was a member of the IRR between his two stints on active duty, and so block 12.e. of his DD 214 should show his inactive service in the Reserve from August 30, 2003, through February 1, 2004, calculated as follows:

$$\begin{array}{r}
 2004 \quad 02 \quad 01 \text{ (last date inactive service before recall)} \\
 - 2003 \quad 08 \quad 30 \text{ (date of entry on inactive duty)} \\
 \hline
 00 \quad 05 \quad 01 \\
 + 01 \text{ (inclusive day)} \\
 \hline
 00 \quad 05 \quad 02
 \end{array}$$

7. Accordingly, the applicant’s DD 214s should be corrected to be consistent with the above findings.

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<sup>5</sup> “Creditable service” for pay purposes is computed in accordance with Appendix C of the Coast Guard’s Personnel and Pay Procedures Manual (PPCINST M1000.2B), which provides that the creditable service performed during an enlistment is determined by subtracting the enlistment date (arranged as year, month, day) from the date of discharge while always using 30-day months so that if “your ending date is the last day of the month and other than the 30<sup>th</sup>, (as in the 31st or 28th/29th Feb) change it to the 30<sup>th</sup>”; adding one “inclusive day”; and subtracting any “time lost”—days of unauthorized absence.

**ORDER**

The application of former [REDACTED] USCGR, for correction of his military record is granted in part. The Coast Guard shall make the following corrections to his DD 214s:

His DD 214 dated August 29, 2003, shall be corrected in block 13 to show that he is entitled to wear the DOT 9/11 Ribbon and the Global War on Terrorism Service Medal and in block 14 to show his EMT training.

His DD 214 dated February 1, 2006, shall be issued with corrections showing exactly 2 years of "net active service this period" in block 12.c. and his 5 months and 2 days of prior inactive service from August 30, 2003, through February 1, 2004, entered in block 12.e.

