

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-005



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 application upon receipt of the applicant's completed application on October 31, 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 May 9, 2014, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant, who was discharged from the Coast Guard in 1988 and got married in 2009, asked the Board to correct her last name in her Coast Guard records to reflect her married name. She did not provide a reason for the delay in submitting her application to the Board.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on March 12, 1984, and was discharged on August 5, 1988. Her enlistment contract, DD 214, and every other document in her Coast Guard military record reflect her maiden name. The applicant changed her last name when she got married on January 30, 2009.

VIEWS OF THE COAST GUARD

On February 11, 2014, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny the applicant's request, based on the analysis of the case provided in a memorandum from Commander, Coast Guard Personnel Service Center (PSC). PSC stated that a former member's DD 214 can reflect only information that was accurate at the time of discharge, and that the applicant's DD 214 correctly reflects the legal name she had at the time of discharge. PSC also noted that the application is untimely.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 26, 2014, the Chair sent the applicant a copy of the views of the Coast Guard and invited her 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. 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 their record. The applicant was discharged in 1988 and her last name was changed upon her marriage in 2009. Therefore, the applicant knew or should have known of the alleged error in her record in 2009, and her application is untimely. The applicant did not provide a reason for the delay in submitting her application.

2. 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, 164 (D.D.C. 1992), the court stated that to determine whether the interest of justice supports a waiver of the statute of limitations, the Board “should analyze both the reasons for the delay and the potential merits of the claim based on a cursory review.” The court further instructed 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.” *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

3. The Board's cursory review of the merits of this case indicates that the applicant is unlikely to prevail in her claim of error, and she bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.¹ The applicant has not proved by a preponderance of the evidence that her military records, which are presumptively correct,² contain any factual error. The records show that she entered, served in, and was discharged from the Coast Guard under her maiden name. Therefore, the Board concludes that the applicant's military records are not erroneous even though they do not reflect her new last name.

4. The Board notes that a DD 214 is a record of a single period of enlistment, like a snapshot, and it is intended to reflect the facts of that enlistment and to be accurate as of the date of discharge.³ COMDTINST M1900.4D, the manual for completing DD 214s, contains no provisions for updating DD 214s when veterans' personal data change after their separation from the

¹ 33 C.F.R. § 52.24(b); *see* Docket No. 2000-194, at 35-40 (DOT BCMR, Apr. 25, 2002, approved by the Deputy General Counsel, May 29, 2002) (rejecting the “clear and convincing” evidence standard recommended by the Coast Guard and adopting the “preponderance of the evidence” standard for all cases prior to the promulgation of the latter standard in 2003 in 33 C.F.R. § 52.24(b)).

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

³ COMDTINST M1900.4D, Chap. 1.D.2.a.

Service. For example, the Coast Guard does not correct or issue new DD 214s when members or veterans later change their home address or earn new awards or time in service. Moreover, although the applicant's name has changed, with her Social Security number on her DD 214 and the court order that legally changed her name, she can prove that the DD 214 is hers. Once a veteran is no longer a member of the Coast Guard and has no ongoing connection with a military service, changes in personal data are recorded by the Department of Veterans' Affairs, not by the military service. Therefore, the Coast Guard's refusal to update the applicant's active duty military records and 1988 DD 214 to reflect her new name is neither erroneous nor unjust.

5. Accordingly, the Board finds that the applicant's request for correction of her military record should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

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

May 9, 2014

