

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-112

[REDACTED]
[REDACTED] SN (former)

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 application on April 14, 2014, 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 January 23, 2015, 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 is a veteran of the United States Coast Guard Reserve, whose current name appears in bold above. His veteran's DD 214 reflects his former name. He has asked the Board to correct the veteran's DD 214 and all other Coast Guard records to show his current name.¹

The veteran enlisted in the Coast Guard Reserve on November 21, 1952, served about two years on active duty, and was honorably discharged from the Reserve when his enlistment ended on November 20, 1960. The applicant alleged that his name was legally changed on November 3, 1965, five years after his discharge. The applicant supported this assertion with evidence in the form of a decree issued by the [REDACTED] on November 3, 1965, which legally effected the name change.

The applicant offered no further evidence or justification supporting his requested relief.

¹ In reviewing the veteran's military records, the Board noticed that the last digit of his Social Security number (SSN), which appears only once in his military record, is different from the Social Security number provided by the applicant on his DD 149 application form. His military record is filed by his service number, instead of his SSN, however, so the error, if any, may have no impact. If the applicant believes that his SSN is incorrect in his military record, he should submit another DD 149 application form with a photocopy of his Social Security card.

APPLICABLE REGULATIONS

Under COMDTINST M1900.4D, the Commandant's instruction for preparing DD 214s, "[a]ll entries [on the DD 214], unless specified otherwise (i.e., block 7a,7b), are for the current period of active duty only from the date of entry as shown in block 12a through the date of separation as shown in block 12b."

VIEWS OF THE COAST GUARD

On August 15, 2014, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the current case submitted by the Commanding Officer, Coast Guard Personnel Service Center (PSC), who recommended the Board deny relief.

PSC stated that the application should be denied due to untimeliness. The applicant was discharged on November 20, 1960, and his name was changed on November 3, 1965. The application to this Board was submitted in February 2014. PSC cited 10 U.S.C. § 1552(b) to assert that "[n]o correction may be made unless the applicant files a request for the correction within three years after discovering the error or injustice. However, a board may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice."

Further, PSC emphasized that this application lacks merit. PSC relied on COMDTINST M1900.4D to stress that the DD 214 was properly prepared with the applicant's legal name at the time of discharge per the regulation.

PSC cited a prior decision, BCMR Docket No. 2009-060, to illustrate that a name change post discharge in and of itself does not prove by a preponderance of the evidence any factual error. In that case, the Board denied the application despite evidence provided of alleged injustice. Such evidence is not present in the current record.

PSC concluded that there was no injustice or error that would otherwise allow for the change in the veteran's DD 214 and the untimeliness of the application and correct preparation of the DD 214 are sufficient basis for denial.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 12, 2014, 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.

2. The application is untimely under 10 U.S.C. § 1552(b) because it was not filed within three years of the date the applicant completed, and hence discovered, his legal name change. The applicant completed his name change November 3, 1965, as is evidenced by his submission of a decree legally changing his name. However, the application was filed in February 2014, over 48 years after his legal name change. Therefore, a preponderance of the evidence shows that the applicant knew of the alleged error in his record and still failed to timely file this application.

3. 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 the instant case, no reasons for delay or illustrations of injustice related to a delay are reflected in the record.⁵

4. The Board’s review of the merits shows that the applicant’s claim must fail. Although the applicant alleged that his records should be corrected to reflect his new name, his military records accurately show the name he served under, and the DD 214 was prepared in accordance with COMDTINST M1900.4D, Chapter 1.D.2.a. Nor has the applicant shown that having his military records reflect his legal name at the time he served constitutes an injustice.⁶ This Board has previously articulated the justification for maintaining a veteran’s former legal name on a DD 214 as it was on the date of discharge as follows:

A DD 214 is a record of a single period of enlistment, like a snapshot, and it is supposed to reflect the facts of that enlistment and to be accurate as of the date of discharge. 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 Service.^{7]}

The actions of the Coast Guard in this case are thus in line with its regulations and consistent with past Board decisions.

5. Accordingly, the Board will not waive the three-year statute of limitations, and the applicant’s request should be denied based on its untimeliness and lack of merit.

² 10 U.S.C. § 1552(b).

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, 1405 n.14, 1407 n.19 (D.C. Cir. 1995).

⁵ “Injustice” is sometimes defined as “treatment by the military authorities that shocks the sense of justice but is not technically illegal.” *Reale v. United States*, 208 Ct. Cl. 1010, 1011 (1976).

⁶ *Id.*

⁷ Dept. of Homeland Security, Board for Correction of Military Records, Docket 2009-060 Final Decision.

ORDER

The application for correction of the military record of former SN 
USCG (Retired), is denied.

January 23, 2015

