

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-146


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 and the applicant's military records on June 6, 2014, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated May 8, 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 claims that he is the veteran named in the caption above, who served on active duty for four years from March 22, 1982, through March 21, 1986, when he received an honorable discharge. He has asked the Board to correct the Social Security number (SSN) on his DD 214. The applicant claimed that his SSN is wrong, and he "attempted to have my SSN changed after ETSing, but instead they provided me with a new card."

Along with a copy of his Social Security card issued on November 15, 2013, which bears the name of the veteran, the applicant submitted a copy of the front and back sides of the veteran's U.S. Merchant Mariner's ID card issued by the Coast Guard on March 18, 1986, which shows the veteran's SSN and date of birth.

SUMMARY OF THE RECORD

When the veteran enlisted in March 1982, the recruiter made a photocopy of his Social Security card. The SSN shown on that photocopy and on the veteran's enlistment papers, discharge form DD 214, and all other military records is completely different from the SSN shown on the photocopy of the Social Security card issued to the applicant on November 15, 2013, which he submitted. The SSN on the 2013 card appears nowhere in the veteran's military records.

Public records accessible in Westlaw show that the veteran—identified by his name, date of birth, and post-discharge address—used the SSN in his military record until about 1996, which was approximately five years after he was convicted of burglary and other offenses in the State of [REDACTED]. Public records further show that beginning in 1996, the veteran began using the new SSN shown on the card submitted by the applicant.

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 October 22, 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. Moreover, PSC argued, all of the applicant's military records reflect the SSN the veteran served under, which is the SSN shown on the photocopy of his original SSN card that was made and entered in his military record upon enlistment. This SSN is not the SSN shown on the applicant's 2013 Social Security card. PSC argued that the applicant—

did not provide enough evidence to recommend relief in this instance. Should the applicant provide proof from the Social Security Administration in concurrence with his statement of error, PSC contends that relief may be considered. There is clearly a discrepancy involving the applicant's social security cards but it is the applicant's obligation to provide the evidence in support of his claim. No relief is recommended until further documentation can be provided.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

In response to the Coast Guard's advisory opinion, the applicant submitted a letter from the Social Security Administration office in his hometown to the applicant, which states, "This letter is to verify [applicant/veteran's full name] only have [sic] one Social Security Number (**-**-**- [last four digits of new SSN])." In addition, the applicant submitted a copy of his birth certificate, showing that his parents' names and place and date of birth are the same as shown in the veteran's military record, and a copy of his driver's license, showing that his date of birth is the same as the veteran's.

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 discovered the alleged error in his record.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.¹ 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”² 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.”³
4. In the instant case, no reason or justification for the applicant’s delay is reflected in the record, but it is critically important for any veteran’s DD 214 to bear the veteran’s correct SSN. If the SSN on the DD 214 is incorrect, a veteran may not be able to prove his status as a veteran to potential employers, Government agencies, and other entities. Therefore, the Board will weigh the evidence and consider the merits of this case.
5. The applicant alleged that the SSN on his DD 214 and other military records is erroneous. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant’s military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁴ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.”⁵
6. Based on the commonality of names, birth place, birth date, parental names, and past residential addresses on the military records, birth certificate, driver’s license, and other public records, the Board is satisfied that the applicant is in fact the veteran who served in the Coast Guard for four years from March 22, 1982, through March 21, 1986. The preponderance of the evidence shows that the DD 214 in question is in fact the applicant’s DD 214, and he should receive all due credit for his military service.
7. The record before the Board contains photocopies of two Social Security cards issued to the applicant with very different SSNs on them. The first card with the first SSN was

¹ 10 U.S.C. § 1552(b).

² *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

³ *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).

⁴ 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)).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

clearly issued to the applicant before he enlisted in March 1982, because his recruiter made the photocopy and placed it in his military record. Military and public records show that this SSN was not a mistake; it was the applicant's correct, original SSN, which he used throughout his military [REDACTED] in the 1980s and up until at least the mid 1990s.

8. Public records show that in about 1996, the applicant began using a new SSN. How he acquired this second SSN is unclear. There is no legal reason for the applicant to have two SSNs, and the Board can only conclude that the second SSN was issued in error. But the applicant has apparently been using this second SSN since 1996, and in 2013, the Social Security Administration issued or re-issued him a card with this second SSN. The applicant wants his 1986 DD 214 to reflect this second SSN.

9. The preponderance of the evidence shows that the SSN on the applicant's DD 214 and on the photocopy of his Social Security card in his military record is *not* erroneous; it is his original, true SSN. The applicant's second SSN is the one that was apparently issued in error.

10. In response to the Coast Guard's advisory opinion, the applicant apparently sought help from his local Social Security office and received in response an unconvincing letter that states that he "only have [sic] one Social Security Number (***-**-[last four digits of new SSN])." This letter is unconvincing because the record clearly shows that the applicant has been issued two different SSNs in his lifetime. The letter does not acknowledge the existence of the applicant's original SSN, state whether that original SSN was voided for some reason, or explain whether his SSN was legally changed or mistakenly changed. The letter does not persuade the Board that the SSN on the 2013 card is a valid, legal SSN, instead of a mistakenly issued SSN. Therefore, the Board will not order the Coast Guard to change the SSN on the applicant's DD 214 at this time. Before doing so, the Board would require clear, explicit, and formal documentation from the Social Security Administration stating that his original SSN (the one on his DD 214) has been legally voided and changed to the new SSN. The letter he already submitted about his new SSN being his only SSN is inadequate because it is obviously erroneous since cards with two different SSNs have been issued to and used by the applicant.

11. To prove that his DD 214 is his own to potential employers or others, the applicant needs the Social Security Administration to issue him a card with his original SSN or at least to acknowledge in writing that the applicant has two valid SSNs or that the SSN shown on his DD 214 has been legally changed to a second SSN. Clearing up this issue through the Social Security Administration would allow the applicant's two earnings records to be joined, which might increase his future Social Security benefits. To get such documentation and clear up this issue, the Board recommends that the applicant take the following documents to his local Social Security office:

- The photocopy of his original Social Security card, with his original SSN, which was sent to him with the Coast Guard's advisory opinion;
- His new Social Security card with his new SSN;
- His DD 214 showing his original SSN;
- His birth certificate; and
- His driver's license.

ORDER

The application of former SN [REDACTED] USCG, for correction of his military record is denied, but as explained in the findings above, he is advised to seek help from the Social Security Administration.

May 8, 2015

