

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-222



FINAL DECISION

This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. After receiving the applicant's completed application on October 1, 2014, the Chair docketed the application and assigned it to [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated June 11, 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, ALLEGATIONS, AND EVIDENCE

The applicant, who was discharged from active duty on May 7, 1970, asked the Board to correct his DD Form 214 (DD 214) to include his prior service in the United States Navy Reserve. The applicant alleged that his prior service as a Navy Reservist was never recorded and that it could have possibly been a result of his break in military service. The applicant stated that he was a Navy Reservist from December 14, 1953, to February 14, 1955. The applicant claimed that it was not until 2014, when he began to apply for veterans' benefits, that he became aware of the error in his record.

In support of his application, the applicant submitted three DD 214s; two honorable discharge certificates, from the U.S. Navy dated February 14, 1955, and from the U.S. Coast Guard dated February 12, 1959; and an enlisted assignment/data form dated August 2, 1968.

SUMMARY OF THE RECORD

On February 15, 1955, the applicant enlisted in the Coast Guard. Upon enlisting, he claimed prior military service in the Naval Reserve, and the Bureau of Naval Personnel sent the Coast Guard a Statement of Service, which shows that he had enlisted in the Naval Reserve for eight years on December 14, 1953, and served until February 14, 1955 (the day before he joined the Coast Guard), which is 1 year, 2 months, and 1 day in the Naval Reserve. The Bureau of Naval Personnel reported that he had performed "training duty" from July 11 to July 24, 1954, but "no active duty."

The applicant served on active duty in the Coast Guard from his enlistment on February 15, 1955, through February 12, 1959. His DD 214 for this enlistment states the following:

- Block 22.a.(1): 3 years, 11 months, and 28 days of active duty since he enlisted on February 15, 1955;
- Block 22.a.(2): 1 year, 2 months, and 1 day of total prior military service (his Naval Reserve service);
- Block 22.a.(3): 5 years, 1 month, and 29 days of total military service (the sum of (1) and (2));
- Block 22.b.: 3 years, 11 months, and 28 days of total active service.

The applicant reenlisted the next day, February 13, 1959, but was transferred to the Coast Guard Reserve on November 20, 1959, just 9 months and 8 days later. His DD 214 for this period shows the following:

- Block 22.a.(1): 9 months and 8 days of active duty since he enlisted on February 13, 1959;
- Block 22.a.(2): 5 years, 1 month, and 29 days of total prior military service (from his prior DD 214);
- Block 22.a.(3): 5 years, 11 months, and 7 days of total military service (the sum of (1) and (2));
- Block 22.b.: 4 years, 9 months, and 6 days of total active service (3 years, 11 months, and 28 days from his prior DD 214 plus the 9 months and 8 days documented by this DD 214).

A Statement of Creditable Service in the record shows that upon leaving active duty, the applicant was transferred to the Coast Guard Reserve to complete his original eight-year military service obligation, which would not expire until December 13, 1961.

The applicant served on inactive duty in the Coast Guard Reserve from November 21, 1959, to November 28, 1961. On November 29, 1961, he reenlisted on active duty. A DD 214 documenting the end of his enlistment on September 10, 1964, shows the following:

- Block 22.a.(1): 2 years, 9 months, and 12 days of active duty since he enlisted on November 29, 1961;
- Block 22.a.(2): 7 years, 11 months, and 15 days of total prior military service (active and inactive from December 14, 1953, through November 28, 1961);
- Block 22.a.(3): 10 years, 8 months, and 27 days of total military service (the sum of (1) and (2));
- Block 22.b.: 7 years, 6 months, and 18 days of total active service.

The applicant immediately reenlisted on September 11, 1964, and served on active duty until he was discharged due to a physical disability on May 7, 1970. His final DD 214 shows the following:

- Block 22.a.(1): 5 years, 7 months, and 26 days of active duty since he enlisted on September 11, 1964;
- Block 22.a.(2): 10 years, 8 months, and 27 days of total prior military service (both active and inactive service from December 14, 1953, through September 10, 1964);
- Block 22.a.(3): 16 years, 4 months, and 23 days of total military service (the sum of (1) and (2));
- Block 22.b.: 13 years, 2 months, and 14 days of total active service.

VIEWS OF THE COAST GUARD

On April 8, 2015, the Judge Advocate General (JAG) submitted an advisory opinion recommending that the Board grant alternative relief in this case in accordance with the findings and analysis provided in a memorandum submitted by the Commanding Officer, Coast Guard Personnel Service Center (PSC).

PSC stated that the applicant is mistaken in his belief that his prior service as a Navy Reservist was not recorded on his DD 214. PSC referenced a memorandum dated May 6, 1955, from the Chief of Naval Personnel, where the applicant’s prior service was confirmed and acknowledged to be a total of 1 year, 2 months, and 1 day. Additionally, the applicant’s Statement of Creditable Service confirms that the applicant enlisted in the Coast Guard on February 15, 1955, was moved to an inactive duty status on November 21, 1959, and subsequently moved back to an active duty status on November 28, 1961, until his discharge from the Coast Guard on May 7, 1970. The applicant’s service time was broken down as follows:

US Navy Reserve		
Enlisted: 12/14/1953	Discharged: 2/14/1955	Total: 1 Year, 2 Months, 1 Day
US Coast Guard		
Enlisted (Active): 2/15/1955	Released: 11/20/1959	Total: 4 Years, 9 Months, 6 Days
Transferred (IRR): 11/21/1959	Until: 11/28/1961	Total: 2 Years, 0 Months, 8 Days
Transferred (Active): 11/29/1961	Discharged: 5/7/1970	Total: 8 Years, 5 Months, 9 Days
Total Active Coast Guard Time	13 Years, 2 Months, 15 Days	
Total Reserve Coast Guard Time	2 Years, 0 Months, 8 Days	
Total Coast Guard Time	15 Years, 2 Months, 23 Days	
Total Coast Guard + Navy	16 Years, 4 Months, 24 Days	

Therefore, both the JAG and PSC recommended denying the applicant’s request to correct his DD 214 to include his prior service as a Navy Reservist, as it was already included in the applicant’s total calculation. However, both recommended granting alternative relief to correct a minor calculation error. The JAG recommended issuing a DD 215 correction form to correct the following blocks:

- Block 22.a(1): 5 years, 7 months, 27 days (instead of 5 years, 7 months, 26 days);
- Block 22.a(3): 16 years, 4 months, 24 days (instead of 16 years, 4 months, 23 days); and
- Block 22.b: 13 years, 2 months, 15 days (instead of the current 13 years, 2 months, 14 days)

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 8, 2015, the Chair of the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The applicant replied on May 22, 2015, agreeing with the Coast Guard's recommendation.

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 concerning this matter pursuant to 10 U.S.C. § 1552.
2. Under 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22, an application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. Although the applicant stated that he did not discover the alleged error or injustice on his DD 214 until September 11, 2014, he received and signed his DD 214 upon his discharge from the Coast Guard in 1970. The preponderance of the evidence shows that the applicant was aware upon his discharge on May 7, 1970, of the total service time listed on the statement of service section of his DD 214. Therefore, his application 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, 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).
4. A cursory review of the record shows that the applicant's DD 214 does include the applicant's prior service as a Reservist for the U.S. Navy. The applicant completed 1 year, 2 months, and 1 day of service as a Navy Reservist, which was confirmed in a memorandum dated May 6, 1955, from the Chief of Naval Personnel. The applicant's Statement of Creditable Service also confirms that the applicant enlisted in the Coast Guard on February 15, 1955, and remained on active duty, until November 20, 1959. On November 21, 1959, the applicant was moved into an inactive duty status through November 28, 1961, a period of 2 years and 8 days. The applicant reenlisted on active duty on November 29, 1961, where he remained until his discharge on May 7, 1970. The record shows that there was no break in military service from the date the applicant enlisted in the Naval Reserve on December 14, 1953, until his date of discharge on May 7, 1970.

5. **Block 22.a.(3). Total Military Service:** The applicant's total military service in block 22.a.(3) of his final DD 214 should account for his entire service in the Naval Reserve, the Coast Guard, and the Coast Guard Reserve from December 14, 1953, through May 7, 1970. Under PPCINST M1000.2B, this period is calculated by subtracting the date of enlistment from the date of separation and adding one "inclusive day".¹

Date of separation	1970	05	07 ²
Date of enlistment	— 1953	12	14
		16	04
			23
"Inclusive day"			+ 01
Total	16	04	24

Therefore, as the Coast Guard alleged, the applicant's final DD 214 should reflect 16 years, 4 months, and 24 days of total military service in block 22.a.(3).

6. **Block 22.b. Total Active Service:** Within those 16 years, 4 months, and 24 days of total military service, the applicant served on continuous active duty for two separate periods while a member of the Coast Guard. (The notification from the Bureau of Naval Personnel states that he performed "no active duty" while in the Naval Reserve.) The first period of active duty in the Coast Guard is documented by his first two DD 214s and ran continuously from February 15, 1955, through November 20, 1959:

Date of separation	1959	11	20
Date of enlistment	— 1955	02	15
		04	09
			05
"Inclusive day"			+ 01
Total for first period	04	09	06

The second period of continuous active duty ran for 8 years, 5 months, and 9 days from November 29, 1961, through May 7, 1970, which is calculated as follows:

Date of separation	1970	05	07 ³
Date of reenlistment	— 1961	11	29
		08	05
			08
"Inclusive day"			+ 01
Total for first period	08	05	09

¹ See U.S. Coast Guard, PPCINST M1000.2B, Personnel and Pay Procedures Manual, App. C (Oct. 2012) (hereinafter PPCINST M1000.2B) (instructions for calculating creditable time in service for pay purposes by subtracting the date of enlistment from the date of separation and adding one "inclusive day").

² To allow the subtraction, one month is counted as 30 more days, and one year is counted as 12 more months, so that 1970 years, 05 months, and 07 days becomes 1969 years, 16 months, and 37 days.

³ To allow the subtraction, one month is counted as 30 more days, and one year is counted as 12 more months, so that 1970 years, 05 months, and 07 days becomes 1969 years, 16 months, and 37 days.

Therefore, the applicant’s total active duty in the Coast Guard shown in block 22.b. of his final DD 214 should be 13 years, 2 months, and 15 days, as the Coast Guard alleged, and is calculated as follows:

	04 y	09 m	06 d	(from Feb. 15, 1955, to Nov. 20, 1959)
	+ 08	05	09	(from Nov. 29, 1961, to May 7, 1970)
Total	12	14	15	
Adjusted Total	13	02	15	(total active duty for both periods in block 22.b.)

7. **Block 22.a.(1). Net Service this period:** The applicant’s final DD 214 documents his final enlistment—i.e., his active duty from his reenlistment on September 11, 1964, through his discharge on May 7, 1970. This period of active duty should be calculated as follows:

Date of separation		1970	05	07 ⁴
Date of reenlistment	—	1964	09	11
		05	07	26
“Inclusive day”				+ 01
Net Service for final enlistment		05	07	27

Therefore, the Coast Guard’s calculations are correct in this regard, and block 22.a.(1) on his final DD 214 is incorrect because it shows only 5 years, 7 months, and 26 days.

8. **Block 22.a.(2). Other military service:** Block 22.a.(2) of the applicant’s final DD 214 is supposed to show all other (prior) military service that a member has completed before the enlistment period documented in block 22.a.(1). Because, as shown in finding 4 above, the applicant’s total military service from his enlistment in the Naval Reserve on December 14, 1953, through his discharge from the Coast Guard on May 7, 1970, amounts to 16 years, 4 months, and 24 days, and 5 years, 7 months, and 26 days (the final enlistment) is documented in block 22.a.(1), the applicant’s “other” (prior) military service, both active and inactive, in block 22.a.(2) may be calculated by subtracting the period of the final enlistment from his total military service:

		16 y	04 m	24 d	(total military service)
Minus	-	05	07	27	(final enlistment period in block 22.a.(1))
Total “other” service		10	08	27	

Therefore, as the Coast Guard alleged, block 22.a.(2) of the applicant’s final DD 214 is already correct in that it shows 10 years, 8 months, and 27 days of “other” (prior) military service—both Navy and Coast Guard service—that the applicant performed before his final enlistment on September 11, 1964.

9. Based on the record before it, the Board finds that the applicant’s claim that his Navy service is not included on his final DD 214 cannot prevail on the merits. However, while

⁴ To allow the subtraction, one month is counted as 30 more days, and one year is counted as 12 more months, so that 1970 years, 05 months, and 07 days becomes 1969 years, 16 months, and 37 days.

the applicant's prior service as a Navy Reservist was included in the "other" service time reported on his final DD 214, the Coast Guard has acknowledged and the applicant's records show that there was a minor error in the final calculation of the applicant's service. Accordingly, the following blocks on the applicant's DD 214 should be corrected by issuing a DD 215 to show the following:

- Block 22.a(1): 5 Years, 7 Months, 27 Days (instead of the current 5 Years, 7 Months, 26 Days);
- Block 22.a(3): 16 Years, 4 Months, 24 Days (instead of the current 16 Years, 4 Months, 23 Days); and
- Block 22.b: 13 Years, 2 Months, 15 Days (instead of the current 13 Years, 2 Months, 14 Days)

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former [REDACTED] USCG, for correction of his military record is denied, but the following alternative relief is granted: The Coast Guard shall issue a DD 215 to make the corrections shown below on his final DD 214, dated May 7, 1970:

- Block 22.a(1): 5 Years, 7 Months, 27 Days (instead of the current 5 Years, 7 Months, 26 Days);
- Block 22.a(3): 16 Years, 4 Months, 24 Days (instead of the current 16 Years, 4 Months, 23 Days); and
- Block 22.b: 13 Years, 2 Months, 15 Days (instead of the current 13 Years, 2 Months, 14 Days)

June 11, 2015

