

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

Application for the Correction of
the Coast Guard Record of:



**FINAL DECISION
BCMR Docket No. 2016-031**

SUMMARY OF THE RECORD

The applicant asked the Board to create a DD 214, "Certificate of Release or Discharge from Active Duty," reflecting his 8 years of service in the Coast Guard Reserve. He enlisted in the Reserve on July 6, 1998, served on involuntary active duty under Title 10 orders from September 14, 2001, through October 13, 2001 (30 days), and was discharged from the Reserve on July 5, 2006. In addition to the 30 days spent under Title 10 orders, he served numerous other periods of active duty, none of which were more than 13 days in length. In support of his application, the applicant submitted a copy of a DD 214 that documents 30 days of Title 10 involuntary active duty in the Coast Guard Reserve from September 14 to October 13, 2001, and an Honorable Discharge certificate stating that he was honorably discharged from the Coast Guard Reserve on July 5, 2006.

On May 23, 2016, the Judge Advocate General of the Coast Guard submitted an advisory opinion recommending that the Board grant alternative relief in accordance with a memorandum submitted by Commander, Personnel Service Center (PSC). PSC argued that the application is untimely and the applicant is not eligible to receive a DD 214 for his 8 years of Reserve service because he did not complete more than 90 days on active duty. PSC noted that Department of Defense Instruction (DoDI) 1336.01 states that DD 214s are issued only to members who have served 90 days or more on active duty and to those who have been called to active duty under Title 10. Therefore, PSC argued that alternative relief should be granted because the applicant is entitled to a DD 214 for the 30 days that he spent on involuntary active duty (Title 10), pursuant to Enclosure (3) to paragraph 2.d.(1) of DoDI 1336.01, which states that "reserve component personnel ordered to active duty for a contingency operation will be issued a DD Form 214 regardless of the length of time served on active duty."

FINDINGS AND CONCLUSIONS

The application is untimely because the applicant was discharged in 2006 but did not submit his application until 2016. The record shows that the applicant enlisted in the Coast Guard Reserve on July 6, 1998, performed 30 days of active duty service under Title 10 orders from September 14 through October 13, 2001, and was discharged from the Reserve on July 5, 2006. His record also shows that he performed several other periods of active duty as well, but none were greater than 13 days in length, and he was discharged from inactive duty in the Reserve, rather than active duty, in 2006. COMDTINST M1900.4D, the Coast Guard's instructions for preparing DD 214s, states in Article 1.B.10. that reservists released from a period of continuous active duty of less than 90 days are ineligible to receive a DD 214, and this is

consistent with DoD policy. There is no evidence that in 2006, the applicant was released or discharged from a period of active duty of at least 90 days. Therefore, he was not entitled to a DD 214, Certificate of Release or Discharge from Active Duty, upon his discharge from the Reserve in 2006.

The applicant served for 30 days under Title 10 orders for a contingency operation¹ in 2001 and so is entitled to a DD 214 to document that active duty, in accordance with Enclosure 3, paragraph 2.d.(1) of DoDI 1336.01. The military record submitted by PSC does not contain such a DD 214, but the applicant submitted a photocopy of the DD 214 he received for this period of active duty with his application to the Board. Therefore, it appears that while the applicant received a DD 214 for his active duty under Title 10 in 2001, no copy of that DD 214 was retained in his military record as it should have been. Because the applicant's military record should contain a copy of his DD 214 dated October 14, 2001, but does not, the Board finds that it is in the interest of justice to waive the statute of limitations so that this error can be corrected.

Accordingly, the applicant's request should be denied but alternative relief should be granted by ensuring that the applicant's 30 days of active duty under Title 10 from September 14 to October 13, 2001, are properly documented on a DD 214 in his military record.

(ORDER AND SIGNATURES ON NEXT PAGE)

¹ 10 U.S.C. § 101(a)(13) (defining a "contingency operation" to include a national emergency); A Proclamation by the President: Declaration of National Emergency by Reason of Certain Terrorist Attacks, 2001 WL 1069441 (White House, Sept. 14, 2001) (declaring a "national emergency" since September 11, 2001, pursuant to 50 U.S.C. § 1601 *et seq.*); Exec. Order 13223 (Sept. 14, 2001) (ordering the Ready Reserve of the Armed Forces to active duty to respond to the national emergency).

ORDER

The application of former [REDACTED], USCGR, for correction of his military record is denied, but the Coast Guard shall ensure that his 30 days of active duty under Title 10 from September 14 to October 13, 2001, are properly documented on a DD 214 in his military record.

October 28, 2016

