

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2016-162

████████████████████
████████████████

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the completed application on June 24, 2016, and assigned it to staff attorney ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 29, 2017, 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 April 4, 1977, through April 3, 1981, when he received an honorable discharge. He has asked the Board to correct the third digit of his Social Security number (SSN) on his DD 214. The applicant claimed that his SSN is incorrect due to a clerical error at his enlistment. He stated that the Social Security card he provided at enlistment was correct, but an error was made by the person who typed up his enlistment documents.

The applicant submitted a copy of his Social Security card issued on May 13, 2016, which bears the name of the veteran and the same SSN as that of the veteran except for the third digit. He also submitted a copy of his DD 214. The applicant stated that he discovered the error on January 15, 2016, and that the Board should consider his application in the interest of justice so that he may have a correct military record.

SUMMARY OF THE RECORD

When the veteran applied for enlistment on March 23, 1977, he hand-wrote on his application the same SSN as the one shown on the DD 214. The SSN on the veteran's enlistment papers and all other military records, some of which were handwritten by the veteran, is the SSN on the veteran's DD 214. The SSN on the 2016 Social Security card, with a different third digit,

appears nowhere in the veteran's military records, except on a form the applicant submitted on February 9, 2012, to the National Archives and Records Administration requesting a copy of his DD 214 and on a handwritten response form showing that he was sent four copies of the DD 214.

VIEWS OF THE COAST GUARD

On December 9, 2016, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum 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, as the applicant was discharged in 1981. Moreover, PSC argued, all of the applicant's military records reflect the SSN the veteran provided at enlistment. PSC stated that the applicant acknowledged this SSN when he signed his enlistment documents. Additionally, the applicant's entire military record, including his health record, uses the SSN provided at enlistment rather than the SSN on the applicant's 2016 card.

PSC argued that the applicant has not shown that his record is erroneous or unjust because he has not provided enough evidence to prove that his SSN recorded upon enlisting in 1977 is incorrect. The applicant did not attempt to correct his SSN during his service career or for more than thirty years after discharge. PSC therefore recommended that the untimeliness of the application not be waived.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On December 13, 2016, the Board mailed a copy of the views of the Coast Guard to the applicant for a response. The Board did not receive a response.

FURTHER PROCEEDINGS

On March 31, 2017, the Board sent a letter to the applicant requesting a copy of his birth certificate or other documents he may have in order to prove that he is the veteran named in the caption above. The Chair placed the case on hold pending receipt of this documentation, but no response was received. The Chair sent the applicant a follow-up letter on September 14, 2017, providing contact information and informing him that because no response to the March 31, 2017, letter had been received, his request would be considered by the Board on September 29, 2017. No response to the second letter has been received.

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 the preponderance of the evidence shows that it was not filed within three years of the date the applicant discovered the alleged error in his record.¹ In this regard, the Board notes that the veteran used the disputed SSN throughout his military service, signed and received his DD 214 in 1981, but began using a different SSN after his discharge.

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

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 he is the Coast Guard veteran with the name in the caption above and 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.⁵ 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.”⁶

6. The record before the Board contains a photocopy of a Social Security card issued to the applicant on May 13, 2016. The card bears the same name as that of the veteran, but the SSN contains a different third digit than the SSN seen throughout the veteran’s military and health records. The applicant alleged that this card proves that the SSN on the veteran’s DD 214 is erroneous, but the applicant has not submitted sufficient evidence to prove that he is the veteran in question. In particular, the applicant has not submitted his birth certificate or other official

¹ 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

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 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)).

⁶ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

documentation to show that he has the same parents and place and date of birth as those of the veteran.

7. Even assuming that the applicant is the veteran, the Board is not persuaded by the photocopy of the 2016 Social Security card that the SSN on the veteran's DD 214 is necessarily erroneous because the veteran used it for four years and never timely attempted to change it. The Board also notes that his pay and benefits for his military service would have been reported to the Social Security Administration under the incorrect SSN. To clear up this issue, the Board recommends that the applicant bring this matter to the attention of the Social Security Administration to ensure that he receives all of the benefits he is entitled to and to request documentation stating that his SSN is in fact the number seen on the 2016 Social Security card and not the number shown on the DD 214.

8. The applicant has not proven by a preponderance of the evidence that the veteran's SSN throughout his military records is incorrect and so his request for a corrected DD 214 should be denied. However, the Board will reconsider his request if he submits a copy of his birth certificate and original documentation from the Social Security Administration showing that his SSN is in fact the number seen on the 2016 Social Security card and not the number shown on the DD 214.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former [REDACTED] USCG, for correction of his military record is denied. However, the Board will reconsider his request if he submits a certified copy of his birth certificate to the Board and additional documentation from the Social Security Administration, as noted in the findings above.

September 29, 2017

