

The applicant's record also contains a service record card, which shows that at the time of his discharge on November 13, 1973, he was stationed at [REDACTED] and that he had served at several other places from 1969 to 1975. And a CG-3312A Personnel Action Form in his record shows that upon his July 20, 1980, separation, his permanent unit was USCG [REDACTED], and that the form was prepared by USCG Group [REDACTED].

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4B contains the Commandant's instructions for the preparation and distribution of the DD 214, and Chapter 1.B.2.a. provides that all entries are for the current period of active duty through the date of separation listed in block 12b on the form. Chapter 1.C. of the instruction states that Block 7 (Last Duty Assignment and Major Command) of the DD 214 should show the last permanent duty assignment. It also states that Block 8 (Station Where Separated) should show "the place or release, transfer, retirement, or discharge (cutter or station) and its geographical location."

VIEWS OF THE COAST GUARD

On August 4, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC argued that relief should be denied because the application is untimely and his DD 214s do not contain any errors. PSC stated that the applicant's two DD 214s were prepared in accordance with COMDTINST M1900.4B and correctly show his last duty assignments at the time of separation. PSC noted that the applicant's DD 214 for the period of service ending November 13, 1973, shows that his last duty assignment was USCG [REDACTED], and that this is correct because his service record card shows that he was stationed there at the time of his 1973 discharge and transfer to the Reserve.

PSC argued that the applicant's DD 214 for the period of service ending on July 20, 1980, is also correct because it shows that his last duty assignment was USCG [REDACTED], and that this is consistent with the CG-3312 in his record which shows that he was stationed there at the time of his 1980 discharge.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 14, 2017, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The Chair did not receive a 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 submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. An application to the Board must be filed within three years after the applicant discovers the alleged

error or injustice.² The applicant received his first DD 214 on November 13, 1973, and his second DD 214 on July 20, 1980. The preponderance of the evidence shows that the applicant knew of the alleged errors in his record in 1973 and 1980, and his application is untimely.

2. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.³ 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”⁴ 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.”⁵

3. Regarding the delay of his application, the applicant argued that the Board should consider his application because he needs a DD 214 which correctly shows all of the different places he was stationed. The Board finds that his explanation for the delay is not compelling because he failed to show that anything prevented him from seeking correction of the alleged error or injustice within three years of discovering the alleged errors in his record.

4. A cursory review of the merits of this case indicates that the applicant’s claim is without merit. The record shows that the applicant’s duty assignment at the time of his 1973 discharge was USCG Station [REDACTED] and this is correctly noted on the last duty assignment block of his DD 214. This assignment is corroborated by a service record card in his file, which shows that at the time of his discharge on November 13, 1973, he was stationed at [REDACTED]. The record also shows that the applicant’s last duty station at the time of his 1980 discharge was USCG [REDACTED], and this is correctly shown on his DD 214 as his last duty assignment. This is consistent with the CG-3312 in the applicant’s record which shows that his permanent unit at the time of his 1980 discharge was USCG [REDACTED].

5. The applicant argued that he needs his DD 214s to reflect each place where he served while in the Coast Guard, but pursuant to the COMDTINST M1900.4B, the Commandant’s manual for the preparation of the DD 214, a member’s complete assignment history is not listed on the DD 214; only their last duty assignment is recorded on the DD 214.

6. Accordingly, the Board will not excuse the application’s untimeliness or waive the statute of limitations. The applicant’s request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

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

³ 10 U.S.C. § 1552(b).

⁴ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁵ *Id.* at 164, 165; see also *Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

ORDER

The application of former [REDACTED], USCG, for correction of his military record is denied.

October 19, 2017

