

Application for the Correction of
the Coast Guard Record of:

[REDACTED]
[REDACTED]
[REDACTED]

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 on May 10, 2017, and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

The applicant, whose name appears first in the case caption above, alleged that she is the veteran, a former [REDACTED] who was discharged on January 18, 1994, and whose name appears second in the case caption. The applicant asked the Board to correct the last name in her Coast Guard records from her former legal name, which was her former husband's last name, to her current legal name, which is her original name. She stated that she resumed using her original name following her divorce in September 2010. The Board interprets this request to mean that she wants her discharge form DD 214 from 1994 changed to reflect her current legal name. In support of her application, she submitted a copy of a Social Security card issued on February 8, 2011, which shows her current legal name, which is the same name as the original name of the veteran listed second in the case caption above. The card also shows the same Social Security number as the one in the military records of the veteran whose name appears second in the case caption.

The veteran enlisted in the Coast Guard on May 20, 1985, under her original name, which is the same as the applicant's current legal name. The veteran began using her husband's last name when she married on June 7, 1991. Her Coast Guard records issued following her marriage reflect

her married name. She was honorably discharged from the Coast Guard on January 18, 1994, and her discharge form DD 214 for the period of service from 1989 to 1994 reflects her married name.

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 5, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the case submitted by the Commanding Officer, Coast Guard Personnel Service Center (PSC), who recommended that the Board deny relief.

PSC stated that the application should be denied as untimely because the applicant was discharged in 1994. Regarding the merits, PSC stated that her DD 214 from 1994 lists the legal (married) name that she had when she was discharged from the Coast Guard on January 18, 1994, and the DD 214 was prepared in accordance with Chapter 1.D.2.a. of the Coast Guard DD 214 Manual, which states that all entries on the DD 214 are for the current period of active duty.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 11, 2017, the Chair sent the applicant a copy of the views of the Coast Guard and invited her to respond within thirty days. The Board received no 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.¹ The applicant resumed using her maiden name following her divorce in 2010 and knew at that time that her DD 214 from 1994 reflected her married name because she used her married name from the time she was married in 1991 until her divorce in 2010. The preponderance of the evidence shows that the applicant knew that her DD 214 did not reflect her current legal name no later than her divorce in 2010, and so her application is untimely.

2. 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

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

² 10 U.S.C. § 1552(b).

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

3. The applicant did not explain why she waited more than six years after her divorce to submit her application to the Board. She failed to show that anything prevented her from seeking changes to her Coast Guard records more promptly.

4. The Board’s cursory review of the merits of this case indicates that the applicant’s request cannot prevail because the record contains no evidence that substantiates her allegations of error or injustice in the official military record, which is presumptively correct.⁵ The record shows that the DD 214 accurately reflects the veteran’s legal name on the date of her discharge, January 18, 1994. Thus, her DD 214 was properly prepared in accordance with COMDTINST M1900.4D, Chapter 1.D.2.a., the Commandant’s instruction for preparing the DD 214. Moreover, the applicant has not shown that having the DD 214 reflect her prior legal name constitutes an injustice. This Board has previously articulated the justification for maintaining a veteran’s former legal name on a DD 214 as it was on the date of discharge as follows:

A DD 214 is a record of a single period of enlistment, like a snapshot, and it is supposed to reflect the facts of that enlistment and to be accurate as of the date of discharge. COMDTINST M1900.4D, the manual for completing DD 214s, contains no provisions for updating DD 214s when veterans’ personal data change after their separation from the Service.^[6]

The actions of the Coast Guard in this case are thus in line with its regulations and consistent with past Board decisions.

5. 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)

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 (D.C. Cir. 1995).

⁵ 33 C.F.R. § 52.24(b); *see Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties “correctly, lawfully, and in good faith.”).

⁶ Department of Homeland Security, Board for Correction of Military Records, Docket 2009-060 Final Decision.

ORDER

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

December 15, 2017

