

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2017-236**

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**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 application and the applicant's military records on August 3, 2017, and assigned the case to staff member ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated March 16, 2018, 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 asked the Board to correct his first name on his DD 214 from Xxxxxy to Xxxx. He stated that when he enlisted in the Coast Guard, the recruiter used his nickname (Xxxxxy) as his first name instead of his actual first name (Xxxx). He stated that the discrepancy has not been a problem until recently when he applied for benefits with the Department of Veterans Affairs (DVA) and discovered that the first name used in his military records does not match his current first name. In support of his application, he submitted a copy of a DD 214 from 1987 which shows that his first name is Xxxxxy. He also submitted copies of a birth certificate issued in 2005, a Social Security card, a driver's license, and a U.S. passport, all of which show that his first name is Xxxx. The date of birth on the documents that he submitted matches the date of birth on his DD 214s,<sup>1</sup> and the number on the Social Security card matches the Social Security number shown on his DD 214s and other military records.

The applicant stated that he discovered the alleged error on July 1, 2017, when he applied to the DVA and discovered that the first name on his military records does not match his current first name.

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<sup>1</sup> The applicant submitted a copy of one DD 214, but his record contains two DD 214s documenting different periods of active duty Coast Guard service.

## **SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard July 14, 1980, using the first name Xxxxxy and was honorably discharged on September 13, 1984. His DD 214 for this period of service shows that his first name is Xxxxxy. He reenlisted on September 14, 1984, and was honorably discharged on September 10, 1987. His DD 214 for this period of service shows that his first name is Xxxxxy. The name Xxxx does not appear in his Coast Guard records. His record also includes copies of the Social Security card and birth certificate that he presented to the Coast Guard upon his enlistment and both of these documents show that his first name is Xxxxxy. The birth certificate and Social Security card are different from those submitted by the applicant showing that his first name is Xxxx, but the Social Security number and date and place of birth on those documents match those on the Social Security card and birth certificate in his Coast Guard record. The applicant did not submit anything to show that he legally changed his first name from Xxxxxy to Xxxx.

## **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 January 19, 2018, the Judge Advocate General 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 Coast Guard Personnel Service Center (PSC), which recommended that the Board deny relief.

PSC argued that relief should be denied as untimely because the applicant was discharged in 1987. Regarding the merits, PSC stated that relief should be denied because the copy of his Social Security card and birth certificate in his official military record show that his first name was Xxxxxy when he served in the Coast Guard. PSC also noted that the applicant signed several documents in his military record using Xxxxxy as his first name.

## **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On January 22, 2018, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The BCMR 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 submissions, 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.<sup>2</sup> The applicant was discharged from the Coast Guard on September 10, 1987, but did not submit his application until July 6, 2017. The Board finds that the preponderance of the evidence shows that the applicant knew by or before 2005 that the first name on his DD 214s was not the same as his current first name because at some point after his discharge but before his new birth certificate was issued in 2005, he stopped using Xxxxxy and began using Xxxx. Therefore, the Board finds that his application is untimely.

2. 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).

3. The applicant did not explain why he waited so long to submit his application to the Board, and he failed to show that anything prevented him from seeking changes to his Coast Guard records more promptly. In addition, the Board’s cursory review of the merits shows that his claim cannot prevail. All of the applicant’s Coast Guard records, including copies of his original birth certificate and Social Security card in his military record, show that throughout his service in the Coast Guard, his legal first name was Xxxxxy. These records are presumptively correct.<sup>3</sup> It is not clear whether the applicant legally changed his name to Xxxx after his discharge in 1987, but even if he did, the manual for preparing DD 214s, COMDTINST M1900.4D, states that “[a]ll entries, 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.” The manual contains no provisions for updating DD 214s when veterans’ personal data change after their separation from the Service.

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

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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

<sup>3</sup> 33 C.F.R. § 52.24(b).

**ORDER**

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

March 16, 2018

