


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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-004


 (former)

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 September 26, 2017, and assigned it to staff attorney  to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated July 6, 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, a  who was released from active duty into the Reserve on June 30, 2008, asked the Board to correct his record by having the Pay and Personnel Center (PPC) correct their records to show that he entered active duty on December 29, 2000. He stated that he recently attempted to buy back his active duty time towards his Federal Employee Government Service retirement. To do so, he was required to submit an RI 20-97 form, "Estimated Earnings During Military Service." He claimed that PPC was "refusing to issue [his] RI 20-97 because of their records." The applicant asserted that his DD 214,¹ showing that he entered active duty on December 29, 2000, is accurate. He stated that he does not know why PPC's records are inaccurate. He stated that he learned of the alleged error in his record on July 27, 2017, when he received a letter from PPC informing him of the discrepancy.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard Reserve and trained on active duty for a period of four months and ten days from February 3, 1998, through June 12, 1998. He received a DD 214 for this service.

¹ A DD 214 is prepared to document a member's release or discharge from a period of active duty.

According to the applicant's second DD 214, he also served on active duty from December 29, 2000, through June 30, 2008. If this DD 214 is correct, he served on active duty for a total of seven years, six months, and two days, and had four months and ten days of prior active duty.

A Statement of Creditable Service (SOCS) issued in June 2011 shows the applicant's four years and ten days of active duty in 1998; three days of active duty in April 2001; and re-entry on active duty on May 11, 2001. The SOCS shows that he attended Officer Candidate School, was commissioned an officer in the Reserve on [REDACTED], and was released into the Reserve on June 30, 2008, having serviced seven years, one month, and twenty days on active duty. Subsequently, he served various short periods of active duty as a Reserve officer.

On July 27, 2017, the applicant received a letter from PPC stating:

We got the RI 20-97 wanting an Estimated Earnings During Military Service.

Our Records do not show you as Active duty 12/29/2000.

For us to do a RI 20-97, the DD Form 214 must match the time you were on Active Duty. You should apply for a DD Form 215 (Correction to DD Form 214).

VIEWS OF THE COAST GUARD

On April 11, 2018, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant alternative relief in this case. In doing so, he adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC stated that the application is timely because the applicant discovered the alleged error on July 27, 2017, and submitted his application within three years of that date. PSC provided a copy of the applicant's Statement of Creditable Service (SOCS) which shows that he had served on active duty from May 11, 2001, to June 30, 2008. PSC also provided a copy of the applicant's Direct Access Report, which shows that the applicant began a period of active duty May 11, 2001, and was released into the Reserve on June 30, 2008. This print-out shows that December 29, 2000, is the applicant's adjusted active duty base date, and not a date he entered active duty.

PSC argued that the DD-214 was incorrect in stating that the applicant had entered active duty on December 29, 2000, and recommended that the Board issue him a DD-215 to show that the applicant entered active duty on May 11, 2001. Once the applicant receives the DD-215, he will be able to receive the RE 20-97 from PPC.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 12, 2018, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. No response was 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 submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely because he discovered the alleged error in 2017.²

2. The applicant alleged that the date he entered active duty in the Coast Guard’s records is erroneous and unjust. 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.³ 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.”⁴

3. The applicant asserted that he entered active duty on December 29, 2000, as his DD-214 indicates. However, there is no other evidence in his record that indicates that he entered active duty on that date. Both his SOCS and his Direct Access Report show that the applicant entered active duty on May 11, 2001. The applicant did not provide any additional evidence, such as copies of his orders, to show that he was on active duty between December 29, 2000, and May 10, 2001. Nor did he respond to the Coast Guard’s advisory opinion. Furthermore, the record indicates that December 29, 2000, was actually the applicant’s adjusted active duty base date when he was released from active duty on June 30, 2008, rather than his date of entry, because before reentering active duty, he had served four months and ten days of active duty for his initial training and then three days of active duty in April 2001, which totals four months and thirteen days, and this is the exact amount of time between December 29, 2000 (the erroneous date of entry on the DD 214) and May 11, 2001 (the actual date of entry) calculated in accordance with Appendix C of the Personnel and Pay Procedures Manual as shown below:

	2001	05	11
-	2000	12	29
		04	12
+			
		04	13
			01 (inclusive day)

Therefore, the record before the Board shows that the applicant entered active duty service on May 11, 2001, and the date of entry shown on his DD-214 was his adjusted active duty base date, rather than the date he began serving on active duty.

² Title 10 U.S.C. § 1552(b).

³ 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)).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

4. The Board may not make changes to an applicant’s record that are not in his favor.⁵ However, the applicant requested a change so that he will be able to buy back his active duty time for Federal Employee Government Service retirement. The only way he can do this is if his date of entry into active duty on his DD-214 matches PPC’s records. Therefore, it is in his interest to have his DD-214 corrected to show the actual date of entry into active duty.

5. The applicant’s DD-214 should also be corrected to show that he had four years and thirteen days of prior active duty in block 12.d., because the three days of active duty that he served in April 2001 are not currently shown on the DD-214. In addition, with a date of entry of May 11, 2001, the “net active service this period” in block 12.c. of his DD-214 should be corrected to show seven years, one month, and twenty days calculated in accordance with Appendix C of the Personnel and Pay Procedures Manual as shown below:

	2008	06	30	
-	2001	05	11	
	07	01	19	
+				01 (inclusive day)
	07	01	20	Net Active Service

6. Accordingly, alternative relief should be granted. A DD-215 should be prepared to correct block 12.a. of his DD-214 to show that the applicant entered active duty on May 11, 2001, instead of December 29, 2000. The DD-215 should also show that his “net active service this period” in block 12.c. was seven years, one month, and twenty days and that his “total prior active service” in block 12.d. was four months and thirteen days. The Board notes that these changes may also require adjustment of the applicant’s Total Prior Inactive Service in block 12.e. and that the Coast Guard should subsequently issue the applicant the documentation he needs to “buy back” his active duty time for federal civilian retirement purposes.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁵ *Friedman v. United States*, 141 Ct. Cl. 239, 252-53 (1958).

ORDER

The application of former [REDACTED], USCG, for correction of his military record is granted in part as follows:

The Coast Guard shall issue a DD-215 to correct the applicant's DD-214 dated June 30, 2008, to show the following:

- The Date of Entry AD This Period in block 12.a. shall be May 11, 2001;
- The Net Active Service This Period in block 12.c. shall be 7 years, 1 month, and 20 days;
- The Total Prior Active Service in block 12.d. shall be 4 months and 13 days; and
- The Total Prior Inactive Service in block 12.e. shall be adjusted accordingly.

After making these corrections, the Coast Guard shall issue him the documentation he needs to "buy back" his active duty time for retirement purposes. No other relief is warranted.

July 6, 2018

