

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-015

FINAL DECISION

This proceeding was conducted in accordance with the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. After receiving the applicant's completed application and military records, the Chair docketed the case on October 11, 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).

This final decision, dated August 3, 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 former [REDACTED] E-4), who was honorably discharged in 1993, asked the Board to correct his DD 214 to show that he enlisted in the Coast Guard on July 18, 1988. He stated that his DD 214 currently shows the date of his second enlistment in 1993 but alleged that it should show the date on which he originally enlisted in the Coast Guard in 1988. The applicant also asked the Board to correct his service dates on the Certification of Military Service letter that he received from the National Archives and Records Administration (NARA). He alleged that his dates of service on the certificate are incorrect because it states that he served in the Coast Guard from July 18, 1988, to September 23, 1993, but he actually served until April 26, 1996.

Regarding the delay in submitting his request to the Board, the applicant stated that the Board should find it in the interest of justice to consider his application because he needs the correction for "federal and military computation."

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on July 18, 1988, for four years and extended his enlistment twice. On September 24, 1993, he signed a Discharge and Reenlistment Contract showing that he had been discharged and immediately reenlisted for three years. The applicant was honorably discharged on April 26, 1996, and was issued a DD 214. Block 12a, "Date

Entered AD This Period” of the DD 214 shows the date September 24, 1994, and Block 12d, “Total Prior Active Service” shows five years, two months, and six days. His record does not contain a separate DD 214 reflecting only his service from July 18, 1988, to September 24, 1993.

In support of his application the applicant submitted a copy of his DD 214 and a Certification of Military Service letter issued by NARA on March 15, 2010, which states that he served in the Coast Guard from July 18, 1988, to September 23, 1993.

APPLICABLE LAW AND REGULATIONS

COMDTINST M1900.4D, the Commandant’s instruction for preparing DD 214s, states that the DD 214 provides the member and the service with a concise record of a period of service with the Armed Forces at the time of the member’s separation. Chapter 1.D.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. The instructions also state that Block 12d, “Total Prior Active Service,” should contain the years, months, and days of service creditable for basic pay for all active service prior to the date entered in block 12a, “Date Entered Active Duty This Period.” Chapter 1.B.6. of the instructions state that a DD 214 will not be issued to a member who is discharged for the purpose of immediate reenlistment.

VIEWS OF THE COAST GUARD

On February 26, 2018, 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. With regards to the merits, PSC argued that the applicant’s DD 214 accurately reflects all of his active duty time. With regards to the applicant’s request to correct the service dates on the certificate of military service issued by NARA, PSC stated that it does not maintain any authority to make corrections to it but noted that the dates of active service are indeed incorrect and should indicate that the applicant was discharged on April 26, 1996, which is the date listed in Block 12b on his DD 214.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 8, 2018, the applicant responded on May 8, 2018, and agreed with the recommendation of the Coast Guard. He did, however, ask the Board to indicate where the entry date of his first enlistment is listed on his DD 214. He also submitted a letter sent to him from the National Personnel Records Center (NPRC) which states that his service record does not contain a DD 214 for his separation from active duty on September 23, 1993. Accordingly, the applicant asked the Board to clarify who is responsible for sending that DD 214 to NPRC.

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 received and signed his DD 214 in 1996, upon his discharge from the Coast Guard. Therefore, the preponderance of the evidence shows that he knew of the alleged error in his record in 1996, 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.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 for the delay, the more compelling the merits would need to be to justify a full review.”⁴

3. The applicant was discharged in 1996 and did not apply for a correction to his DD 214 until 2017. However, the Board’s cursory review of the merits of this case shows that his record is clearly incorrect because it contains no DD 214 documenting several years of his active duty except as “prior active service.” Therefore, the Board will waive the statute of limitations.

4. When the applicant was discharged on April 26, 1996, he had been on continuous active duty since July 18, 1988, and he had received no prior DD 214. The DD 214 manual then in effect states that block 12a should contain “the date of entry on active duty.” Therefore, the entry in block 12a on the applicant’s DD 214 should have been July 18, 1988, rather than September 24, 1993, and his service from July 18, 1988, through September 23, 1993, should have been included in the total of “Net Active Service This Period” in block 12c, rather than in block 12d as “Total Prior Active Service.” His DD 214 does show his total amount of active duty if blocks 12d (“Net Active Service This Period”) and 12e (“Total Prior Active Service”) are added together, but it does not show when that prior active duty was performed and so the applicant cannot use his DD 214 to prove that he was on active duty from July 18, 1988, through September 23, 1993.

5. The applicant also asked the Board to correct a NARA document, but the Board has no authority to do so.

6. Therefore, the Board will grant relief by directing the Coast Guard to issue a DD 215 to correct block 12a of his DD 214 to show his date of entry on active duty, July 18, 1988; block 12c to show 7 years, 9 months, and 9 days of “Net Active Service This Period”; and block 12d to show no “Total Prior Active Service.”

(ORDER AND SIGNATURES ON NEXT PAGE)

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 (D.C. Cir. 1995).

ORDER

The application of former [REDACTED] USCG, for correction of his military record is granted in part. The Coast Guard shall issue him a DD 215 to correct his DD 214 as follows:

- Block 12a shall show his date of entry on active duty, July 18, 1988;
- Block 12c shall show 7 years, 9 months, and 9 days of “Net Active Service This Period”; and
- Block 12d shall show no (00 years, 00 months, and 00 days) of “Total Prior Active Service.”

August 3, 2018

