



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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-062

 MKC (Retired)

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 on December 22, 2017, after receiving the applicant's completed application, and assigned it to staff member  to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 15, 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 Chief Machinery Technician (MKC) who retired from the Coast Guard on April 30, 1982, after serving more than twenty years on active duty, asked the Board to correct block 12.a, Date Entered Active Service, on his DD 214¹ to show that he enlisted in the Coast Guard on April 20, 1962, instead of April 11, 1978. He also asked the Board to change block 12.g., Sea Service, to show that he performed 14 years and 10 months of sea service, instead of 1 year, 11 months, and 22 days. The applicant stated that he enlisted in the Coast Guard in April 1962 and had more than 14 years of sea service and needs these changes on his DD 214 because it impacts his "application for disability." He stated that he discovered the alleged errors in his record on July 22, 2016, and argued that the Board should find it in the interest of justice to consider his application because he needs the corrections so he can apply for disability.

In support of his request, the applicant submitted copies of a DD 214 documenting the final four years of his active service from April 11, 1978, until his retirement on April 30, 1982, and a record of service that he prepared, which lists all of the places he served during his Coast Guard career. On the record of service list he indicated that he served on the CGC Red Birch from February 1980 to April 1982.

¹ A DD 214 is prepared to document a member's release or discharge from a period of active duty and a DD 215 is used to correct or add information to a DD 214.

SUMMARY OF THE RECORD

The applicant's military record includes the following separation documentation:

- A DD 214 shows that the applicant enlisted in the Coast Guard on April 20, 1962, and was honorably discharged on April 11, 1966. Block 24.c. states that he performed 3 years, 5 months, and 26 days of foreign and/or sea service during this enlistment.
- A second DD 214 shows that the applicant immediately reenlisted on active duty on April 12, 1966, and was honorably discharged on April 11, 1972. Block 22.c. shows that he had served 4 years, 2 months, and 7 days of foreign and/or sea service during his second enlistment. The DD 214 correctly shows that he had 3 years, 11 months, and 22 days of prior active service and had served exactly 6 additional years of active duty during the enlistment, for a total of 9 years, 11 months, and 22 days of total active service.
- A third DD 214 shows that the applicant immediately reenlisted on active duty on April 12, 1972, and was honorably discharged as an MK1 on April 10, 1975. The DD 214 shows that he had served 2 years, 11 months, and 29 days of active duty during the enlistment, which when added to his prior service, made a total of 12 years, 11 months, and 21 days of active duty. It also shows that he had served 2 years, 10 months, and 25 days of foreign and/or sea service during his third enlistment.
- A fourth DD 214 shows in block 15 that the applicant entered active duty on April 11, 1974, and was discharged on April 10, 1974.² Block 18 shows that he was credited with exactly 3 years of "Net Active Service This Period" and 12 years, 11 months, and 21 days of "Prior Active Service." It also shows that he had performed 1 year, 1 month, and 21 days of foreign and/or sea service during his fourth enlistment.
- Because both the enlistment and discharge dates on the applicant's fourth DD 214 are clearly erroneous, on May 16, 1978, the Coast Guard issued a DD 215 to correct the "Date Entered Active Duty This Period" on his fourth DD 214 to show that he reenlisted on April 11, 1975, instead of April 11, 1974, and likewise to correct his date of discharge in block 9.d. from April 10, 1974, to April 10, 1978.
- A fifth DD 214 shows that the applicant immediately reenlisted on April 11, 1978, and was retired on April 30, 1982 at the rate of MKC. The DD 214 shows that he had served 4 years and 20 days of active duty during the enlistment, and had 15 years, 11 months, and 21 days of prior active service. It also shows that he had served 1 year, 11 months, and 22 days of sea service during his fifth enlistment, and his record shows that he performed that sea service aboard the CGC Red Birch from May 9, 1980, until his discharge on April 30, 1982.

² The information in these two blocks of the DD 214 is clearly erroneous because the date of discharge date is one day *before* the date entered active duty this period.

VIEWS OF THE COAST GUARD

On May 29, 2018, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion and adopted the findings and analysis in a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC recommended denying relief, arguing that there are no errors within the applicant's military records or on his DD 214s. PSC stated that all periods of his service are accounted for and his sea service is properly calculated based on the period of enlistment documented by the final DD 214.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 13, 2018, the BCMR sent the applicant a copy of the Coast Guard's recommendation, including copies of all of his DD 214s and the DD 215, and invited him to submit a response. The Chair did not receive a response.

APPLICABLE LAW AND REGULATIONS

COMDTINST 1900.4B, was issued in 1979 and contains the Commandant's instructions for completing the DD 214. It states that Block 12.a. (Date Entered Active Duty This Period) should contain the date of entry for the current period of active duty.

COMDTINST 1900.4B states that Block 12.g. (Sea Service) on the DD 214 should list the years, months, and days of sea service performed from the date of entry in block 12.a. to the date of separation in block 12.b.

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.³ The applicant retired from the Coast Guard and received his final DD 214 on April 30, 1982, and so 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.⁴ 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"⁵ 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."⁶

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

⁴ 10 U.S.C. § 1552(b).

⁵ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁶ *Id.* at 164, 165; see also *Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

3. The applicant did not justify his delay in seeking changes to his DD 214, and the Board's cursory review of the merits of this case indicates that his Coast Guard records do not require any corrections. He alleged that the DD 214 that he received upon his retirement on April 30, 1982, does not properly list the date he enlisted in the Coast Guard or document all of his sea service. His DD 214 documenting his last period of service indicates that he entered active duty for that period on April 11, 1978, and this date is correct because the Coast Guard's manual for completing DD 214s states that Block 12.a. (Date Entered Active Duty This Period) should contain the date of entry for the current period of active duty. The sea service recorded in block 12.g. on the applicant's final DD 214 is likewise correct. The DD 214 instructions state that block 12.g. on the DD 214 should list the years, months, and days of sea service performed from the date of entry in block 12.a. to the date of separation in block 12.b.—i.e., for the period of enlistment documented by the DD 214, not for the member's entire military career. The applicant's records show that he was assigned to the CGC Red Birch from May 9, 1980, until his discharge on April 30, 1982, and this 1 year, 11 months, and 22 days of sea service is properly documented on his final DD 214. Under both the DD 214 Manual then in effect and the current DD 214 Manual, the entry for sea service on a DD 214 is not supposed to be cumulative. Only the sea service performed during the period of service documented by the DD 214 should be entered in this block. The applicant's prior sea service is properly documented on his first four DD 214s.

4. The applicant's final DD 214 is presumptively correct and he has submitted insufficient evidence to rebut it. Based on the record before it, the Board finds that the applicant's claim cannot prevail on the merits. 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)

ORDER

The application of MKC [REDACTED], USCG (Retired), for correction of his military record is denied.

November 15, 2018

