

**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. 2018-089**

████████████████████  
██████████ DC1 (former)

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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 applicant's completed application on February 9, 2018, 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 September 14, 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, who was honorably discharged from active duty on January 1, 1963, and immediately entered the Coast Guard Reserve, asked the Board to correct his discharge form, DD 214, to show that he was discharged as a Lieutenant Junior Grade (LTJG/O-2), instead of a Damage Controlman (DC1/E-6).

The applicant stated that his rank at the time of his discharge was LTJG and not DC1. He asserted that a clerk put him back in the pay grade he held before he attended Officer Candidate School (OCS). Regarding the delay in his application, he stated that the Board should consider this error in the interest of justice because he wants to ensure that he is buried with the correct rank on his headstone. In support of his application, the applicant provided several documents which are discussed below in the Summary of the Record.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard on July 29, 1958, as a Seaman recruit. He signed a four year contract. Travel orders show that from January 17 to May 12, 1960, he attended Officer

Candidate School. On May 13, 1960, he accepted a temporary appointment to Ensign in the Coast Guard Reserve<sup>1</sup> and was assigned to a cutter as an engineering student.

On November 13, 1961, the applicant accepted appointment for temporary service as lieutenant junior grade. He applied for integration into the regular Coast Guard, but his appointment remained temporary.

On May 21, 1962, the applicant submitted a request to be released early from his four-year service obligation so that he could attend college in February 1963. He noted that he “no longer wish[ed] to be considered for integration,” but requested a permanent appointment in the Coast Guard Reserve upon his release from active duty.

On June 4, 1962, Commandant acknowledged the applicant’s letter and advised him that a “request for reversion to enlisted status, release to inactive duty and a commission in the Coast Guard Reserve on or about 1 January 1963 will receive favorable consideration.”

On June 14, 1962, the applicant submitted a request for reversion to enlisted status, release to inactive duty, and a commission in the Coast Guard Reserve on or about January 1, 1963. On July 19, 1962, Commandant advised the applicant that his request had been approved. The Commandant stated that on January 1, 1963, his temporary appointment as an LTJG would end and he would revert to his permanent enlisted grade. In addition, “Upon reversion to your permanent enlisted grade, you will be transferred to the Coast Guard Reserve and immediately placed on inactive duty.”

On September 21, 1962, the applicant sent a letter to the Commandant noting that the message of July 19, 1962, had not mentioned a commission as a Reserve officer and requesting a commission in the Coast Guard Reserve upon his release from active duty. The letter states the following:

[Commandant’s letter of June 12, 1962], stated that a request for release to inactive duty and a commission in the Coast Guard Reserve on or about 1 January 1963 will receive favorable consideration. A request was then submitted, and [Commandant’s letter of July 19, 1962], stated that my appointment for temporary service as Lieutenant (junior grade) USCG, is terminated effective 1 January 1963 and I would revert to my permanent enlisted grade. However, as requested, [the Commandant’s July letter] did not mention that a commission in the Coast Guard would be granted upon release.

It is requested that I be granted a commission in the Coast Guard Reserve upon release from active duty.

On October 22, 1962, the applicant received a letter from the Commandant noting that the Secretary had appointed as a LTJG in the Coast Guard Reserve effective as of January 2, 1963, “with rank from November 13, 1961.”

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<sup>1</sup> See 14 U.S.C. § 214 (authorizing the appointment of enlisted members as temporary officers; providing that a temporary appointment as an officer does not change the permanent status of the member; authorizing whoever makes the appointment to vacate it; and providing that the person whose appointment is vacated reverts to his permanent status).

On November 15, 1962, the applicant, who was serving in the Eighth District, submitted a request asking that he be processed for release from active duty in the First District because he enlisted there.

On November 26, 1962, Commandant replied, stating that in accordance with the notification of July 19, 1962, the applicant's appointment for temporary service as an LTJG would terminate on January 1, 1963. At that time, the applicant would revert to his "permanent enlisted grade and be discharged by [his] present commanding officer." The applicant's appointment as an LTJG in the Coast Guard Reserve would not be effective until January 2, 1963, after he had been discharged.

The applicant was discharged on January 1, 1963, after serving four years, five months, and three days on active duty. His DD 214 states that he was discharged at the rank of DC1/E-6.

On January 2, 1963, the applicant signed an acceptance and oath of office to accept as appointment as an LTJG in the Coast Guard Reserve. His date of rank was November 13, 1961.

On May 28, 1968, the applicant submitted a request to resign his commission and be discharged from the Reserve. On July 26, 1968, Commandant notified him that his resignation had been accepted as of July 16, 1968.

### **VIEWS OF THE COAST GUARD**

On July 30, 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 untimely and should not be considered beyond a cursory review. PSC argued that when the applicant was discharged from active duty he was a DC1 and not a LTJG. His DD 214 was therefore processed in accordance with applicable policy. As the applicant was informed in the November 26, 1962, letter, he became a LTJG in the Coast Guard Reserve on January 2, 1963. PSC therefore argued that the DD 214 is correct. However, PSC recommended that alternative relief be granted by issuing the applicant a Statement of Creditable Service (SOCS) in order to document the applicant's service as an officer in the Coast Guard Reserve after his service on active duty.

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

On August 7, 2018, the Chair sent the applicant a copy of the Coast Guard's advisory opinion and invited a response within thirty 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 submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. An application to the Board must be filed within three years of the date the applicant discovers the alleged error in his record.<sup>2</sup> The applicant was discharged and received his DD 214 in 1963. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error in his record in 1963, and his application is untimely.
3. 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 (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.”<sup>3</sup> 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.”<sup>4</sup>
4. Regarding the delay of his application, the applicant stated that it is in the interest of justice to consider his application because he wishes to ensure that the correct rank is displayed on his headstone when he is buried. The Board finds that the applicant’s explanation for his delay is not compelling because he failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.
5. A cursory review of the merits of this case indicates that his claim cannot prevail. The record contains no evidence that substantiates the applicant’s allegations of error or injustice in his official military record, which is presumptively correct.<sup>5</sup> The applicant was informed on November 26, 1962, that his temporary appointment as an officer would end on January 1, 1963, and he would revert to enlisted status *before* his command was authorized to discharge him from active duty. His subsequent appointment as an LTJG in the Coast Guard Reserve would not be effective until January 2, 1963. The applicant signed an oath of office to this effect as well, stating that he accepted a commission to become a LTJG in the Coast Guard Reserve on January 3, 1963. Based on the record before it, the Board finds that the applicant’s claim cannot prevail on the merits because he had already reverted to enlisted status when he was released from active duty on January 1, 1963.
6. It is important, however, that the applicant have documentation of all of his time in the Coast Guard. Therefore, the Board agrees that he should receive a SOCS as recommended by PSC so that he can easily verify his service.
7. Accordingly, the Coast Guard should prepare a SOCS for the applicant to document all of his active duty and Reserve time with the Coast Guard.

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<sup>2</sup> 10 U.S.C. § 1552; 33 C.F.R. § 52.22.

<sup>3</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

<sup>4</sup> *Id.* at 164-65; see *Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

<sup>5</sup> 33 C.F.R. § 52.24(b).

**ORDER**

The application of former LTJG [REDACTED], USCGR, for correction of his military record is granted in part as follows: The Coast Guard shall prepare a Statement of Creditable Service for him which shall cover all of his active duty and Reserve service.

September 14, 2018

