

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-145

██████████
██████████ MK2 (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 May 15, 2018, and prepared the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated March 8, 2019, 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 served in the Coast Guard Reserve from June 21, 1971, to June 20, 1977, asked the Board to correct his DD 214 dated December 11, 1971, to reflect periods of active duty he performed in 1973 and 1974. The applicant stated that his DD 214 is erroneous because it reflects only 5 months, 21 days of active duty, which was the duration of his Initial Active Duty for Training (IADT), but he subsequently served two periods of active duty exceeding 90 days each in the summers of 1973 and 1974. The applicant stated that he needs these subsequent periods of active duty added to his DD 214 so that it will show more than 6 months of active duty and he can get a "veteran" designation on his ██████████ driver's license.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard Reserve for six years on June 21, 1971, and began his IADT the same day. He was completed IADT and was released from active duty on December 11, 1971, and his DD 214 was issued that day and documents his 5 months, 21 days of active duty.

After IADT, the applicant drilled regularly and he performed 19 days of annual active duty for training from June 27 through July 15, 1972. In September 1972, he enrolled in college. Thereafter, he drilled irregularly.

Two sets of endorsed orders issued on June 7, 1973, show that the applicant served on active duty from June 17 through September 1, 1973.

Endorsed orders show that the applicant served on active duty from July 8 through September 6, 1974.

Two sets of endorsed orders show that the applicant performed annual active duty for training from June 23 through July 18, 1975.

The applicant began graduate school in another state in September 1975. He was transferred to a nearby Reserve unit as of August 31, 1975. No further active duty orders were issued for the applicant, and he was honorably discharged from the Reserve when his enlistment ended on June 20, 1977.

VIEWS OF THE COAST GUARD

On October 26, 2018, a judge advocate of the Coast Guard submitted an advisory opinion in which she recommended that the Board deny relief and adopted the findings and analysis in a memorandum on the case prepared by the Personnel Service Center (PSC).

PSC stated that under the DD 214 Manual, COMDTINST M1900.4A, Enclosure 1, Article 1.a.(2)(a), a DD 214 is not issued to document a reservist's active duty for training unless the period of active duty is at least 90 days. PSC stated that after the applicant completed IADT, he did not complete an additional period of active duty of at least 90 days and so he is not entitled to another DD 214.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 1, 2018, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within thirty days. No response was received.

APPLICABLE LAW AND POLICY

The DD 214 Manual, COMDTINST M1900.4A, states that a DD 214 provides a member "with a brief clear-cut record of a period or term of service with the Armed Forces at the time of his transfer, release, or discharge from active duty." Article 1.a.(2) of Enclosure 1 to the manual states that a DD 214 will be issued to a reservist being released from active duty for training (a) "when they have served 90 days or more"; (b) when they are being released from active duty due to physical disability; or (c) upon completing a second phase of IADT regardless of its length.

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.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.¹ The record shows that the applicant received his DD 214 documenting his IADT in 1971 and was discharged from the Reserve without receiving another DD 214 in 1977. Therefore, his application is untimely.

3. 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 are for the delay, the more compelling the merits would need to be to justify a full review.”⁴

4. The applicant did not explain his delay but argued that it is in the interest of justice for the Board to correct his record so that he can receive a “veteran” designation on his [REDACTED] driver’s license. Moreover, his request lacks merit. The DD 214 in his record was issued to document his release from active duty upon completing IADT, and there is no policy allowing DD 214s to be updated after they are issued to reflect subsequent short periods of active duty. The applicant alleged that he performed subsequent periods of active duty that were longer than 90 days and so should be documented on a DD 214. However, the active duty orders in his record show that he did not perform any periods of active duty that were at least 90 days long after he completed his IADT in 1971. Therefore, he is not entitled to any additional DD 214s to document his active duty periods from 1972 to 1975.

5. The applicant has not justified his delay and his request regarding his DD 214 lacks merit, and so there is no reason to waive the statute of limitations for his request. However, all reservists are entitled to documentation of their military service even if that documentation is not a DD 214. There is no statement of service in the applicant’s record summarizing all of his active and inactive service and his honorable discharge from the Reserve. Therefore, even though his request should be denied as untimely, in the interest of justice, the Board will direct the Coast Guard to issue him a statement of 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 MK2 [REDACTED], USCGR, for correction of his military record is denied, but alternative relief is granted. The Coast Guard shall issue him a statement of service summarizing his active and inactive military service and his honorable discharge from the Reserve.

March 8, 2019

