

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-012

██████████
██
██████████ QM2 (former)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the application and the applicant's military records on August 15, 2018, and assigned the case to staff member ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated October 18, 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 stated that he is the veteran whose name appears second in the caption above, and he asked the Board to correct his name on his DD 214 and honorable discharge certificate to his new legal name. He stated that he was discharged in 1953 and legally changed his last name in 1956. In support of his application, he submitted a copy of a probate court's order changing his last name on May 24, 1956, which shows that he legally changed his last name on that date.

The applicant stated that he discovered the alleged error on May 24, 1956, and argued that the Board should find it in the interest of justice to consider his application because he simply wants his DD 214 and discharge certificate to reflect his current name.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on November 7, 1950, and was honorably discharged on November 6, 1953. All of his Coast Guard records, including his DD 214, reflect the name shown second in the case caption above.

APPLICABLE REGULATIONS

Under COMDTINST M1900.4D, the Commandant's instruction for preparing DD 214s, "[a]ll entries [on the DD 214], unless specified otherwise (i.e., block 7a,7b), are for the current period of active duty only from the date of entry as shown in block 12a through the date of separation as shown in block 12b."

VIEWS OF THE COAST GUARD

On April 23, 2019, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the case submitted by the Coast Guard Personnel Service Center (PSC), which recommended that the Board deny relief.

The Coast Guard JAG and PSC argued that the application should be denied as untimely because the applicant was discharged in 1953. With regards to the merits, the Coast Guard argued that relief should be denied because the applicant failed to state what error or injustice is associated with his name change not being reflected on his DD 214. Moreover, the JAG stated that the Coast Guard complied with the applicable policy in COMDTINST M1900.11 in preparing the DD 214 and that it correctly reflects the name he used while he was in the service and at the time he was discharged.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 1, 2019, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. The BCMR did not receive a response.

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. An application must be filed within three years of the date that the applicant discovers the alleged error or injustice.¹ The applicant was discharged from the Coast Guard on November 6, 1953; legally changed his name in 1956; and submitted his application to the Board on February 28, 2017, more than sixty years after he changed his name. Therefore, the preponderance of the evidence shows that the application was not timely filed.

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

¹ 10 U.S.C. § 1552(b).

² *Id.*; 33 C.F.R. 52.22.

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 In accordance with this direction, the Board has conducted a cursory review of the merits and finds no reason to excuse the untimeliness of the application:

a. The applicant did not explain or justify why he waited more than sixty years after his name change to request correction of his name on his DD 214 and discharge certificate. He failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.

b, The applicant has submitted no evidence of error or injustice. His DD 214 was properly issued in his legal name at the time of his separation. As the Board has found in similar cases, “[a] DD 214 is a record of a single period of enlistment, like a snapshot, and it is supposed to reflect the facts of that enlistment and to be accurate as of the date of discharge. COMDTINST M1900.4D, the manual for completing DD 214s, contains no provisions for updating DD 214s when veterans’ personal data change after their separation from the Service.”⁵ The applicant has a court order proving his name change and has presumably used that court order to prove that the DD 214 is his own for the past sixty years. And he did not claim or show that he has been denied any military or veterans’ benefits because of his name change.

3. 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)

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).

⁵ Dept. of Homeland Security, Board for Correction of Military Records, Docket 2009-060 Final Decision.

ORDER

The application for correction of the military record of former QM2 [REDACTED]
[REDACTED] USCG, now known as [REDACTED], is denied.

October 18, 2019

