

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

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Application for Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2019-013**

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SA (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. 2507. The Chair docketed the case on October 16, 2018, after receiving the application and military records, and prepared the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated November 1, 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, ALLEGATIONS, AND EVIDENCE**

The applicant, who served in the Coast Guard from January 9 to July 6, 1984, asked the Board to correct the amount of active duty shown on her DD 214 to 181 days. The applicant noted that 1984 was a leap year, and she believes that this fact was overlooked in the calculation of her net active service. She submitted a copy of her DD 214, which currently shows the following entries:

<b>12. Record of Service</b>	<b>Years(s)</b>	<b>Month(s)</b>	<b>Day(s)</b>
a. Date Entered [Active Duty] This Period	84	01	09
b. Separation Date This Period	84	07	06
c. Net Active Service This Period	00	05	28
d. Total Prior Active Service	00	00	00
e. Total Prior Inactive Service	00	04	22

The applicant stated that she discovered the error in her record in September 2018 and argued that it is in the interest of justice for the Board to consider her request because she must have more than 180 days of active duty to successfully apply for her State’s veterans’ benefits.<sup>1</sup>

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<sup>1</sup> Counted day by day and including the start date, end date, and February 29, the applicant served exactly 180 calendar days of active duty.

In addition to her DD 214, the applicant's record contains documents showing that she entered the Coast Guard Reserve under the delayed entry program on August 17, 1983, and enlisted on active duty in the regular Coast Guard on January 9, 1984. She completed recruit training but was honorably discharged on July 6, 1984. A Page 7 (CG-3307) in the record, which she signed, notes that she had served on active duty for 5 months and 28 days.

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

On April 30, 2019, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board deny relief in this case. In making this recommendation, the JAG adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC noted that the case is untimely and stated that the applicant's net active service in block 12c on her DD 214 was properly calculated in accordance with the rules for calculating creditable service in Appendix C of the Personnel and Pay Procedures Manual.

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

On May 2, 2019, the Chair sent the applicant a copy of the views of the Coast Guard and invited her to respond. No response was received.

### **APPLICABLE LAW AND POLICY**

#### ***Rules for Computing Creditable Time***

The rules for calculating creditable time for pay purposes appear in Appendix C of the Coast Guard's Personnel and Pay Procedures Manual, PPCINST M1000.2B, App. C (Oct. 2012) provide that the start date of the period of active duty is subtracted from the end date, with the following provisos:

- When computing any pay related problem consider all months to have 30 days. Those computations dealing with Creditable Service, Deductible Time ..., Active Duty Base Date, Pay Base Date, Date of Rank, and Creditable Sea Duty all affect a member's pay and should be based on 30 days. There are a couple of exceptions which are listed below.
  1. Active duty for training and/or other active duty for periods of less than 30 consecutive days is always computed day-for-day, and the 31<sup>st</sup> day of the month is counted.
  2. In deductible time computations, the 31<sup>st</sup> day of the month is counted when deductible time commences on the 31<sup>st</sup> day of the month.
- Never change the beginning date when doing computations.
- When your ending date is the last day of the month and other than the 30<sup>th</sup>, (as in the 31<sup>st</sup> or 28<sup>th</sup> /29<sup>th</sup> Feb) change it to the 30<sup>th</sup>, except for computation of Expiration of Enlistment (see page 39).
- When subtracting one date from another date, always ADD 1 day for inclusive dates. This puts the beginning date back into the computation.
- When subtracting a *period of time* from a date, DO NOT add a day.

### 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 submitted within three years of the applicant's discovery of the alleged error or injustice in her record.<sup>2</sup> Although the applicant claimed that she discovered the alleged error—the amount of active duty shown on her DD 214—in 2018, she received and signed her DD 214 and the Page 7 in her record in 1983, both of which show that her net active service was 5 months and 28 days. Therefore, the preponderance of the evidence shows that the applicant's request is untimely.

3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>3</sup> 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”<sup>4</sup> 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.”<sup>5</sup> Pursuant to these directions, the Board finds the following:

a. The applicant apparently learned about her State's requirements for veterans' benefits in 2018, but she knew the contents of her DD 214—including the amount of active duty shown—in 1983 and has not justified her delay in seeking correction of the alleged error.

b. A cursory review of the merits shows that the applicant's claim lacks potential merit. Her DD 214 presumptively correct,<sup>6</sup> and the calculation of her creditable active duty on her DD 214 is correct under the policy in Appendix C of PPCINST M1000.2B:

End Date	1984 07 06
Start Date	— 1984 01 09
	05 27
“Inclusive day”	+ 01
<b>Total</b>	<b>05 28</b>

4. Accordingly, the Board will not excuse the application's untimeliness or waive the statute of limitations to conduct a thorough review of the merits. The request should be denied.

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<sup>2</sup> 10 U.S.C. § 1552(b).

<sup>3</sup> 10 U.S.C. § 1552(b).

<sup>4</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

<sup>5</sup> *Id.* at 164, 165; see also *Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

<sup>6</sup> 33 C.F.R. § 52.24(b); see *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties “correctly, lawfully, and in good faith.”).

**ORDER**

The application of former SA [REDACTED], USCG, for correction of her military record is denied.

November 1, 2019

