


**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. 2019-123**

  
CWO4 (retired)

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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 after receiving the applicant's completed application on May 4, 2019, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated May 15, 2020, 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 alleged that she is the veteran whose name appears below her name in the case caption above, and she has asked the Board to direct the Coast Guard to issue her a new discharge form DD 214 with her new name. The veteran's military records show that the veteran was born male and served in the Coast Guard with a male name.<sup>1</sup> The Social Security number in the veteran's records is the same as that shown on the application. In support of her application, she submitted a copy of a name change order issued by a State District Court on May 21, 2009, which shows that her name was previously the same as that of the veteran.

In addition to asking the Board to change the name on her DD 214, she asked the Board to correct her record to show that she earned the following awards:

- Coast Guard "E" Ribbon for service aboard a cutter from June 1974 to September 1976.
- Coast Guard Overseas Service Ribbon for her service at a Loran-C Detail from May 1988 to August 1990.

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<sup>1</sup> The Board notes that persons' names are considered "male" or "female" (or both) because of cultural tradition, not law. This decision labels the names at issue "male" or "female" in accordance with American cultural tradition.

- Coast Guard Unit Commendation for her service at the Coast Guard Telecommunications and Information Systems Center (TISCOM) in the early 1990s.

The applicant argued that the Board should find it in the interest of justice to consider her application because she did not know when she changed her name and gender in 2009 that updating her DD 214 would become critical.

### SUMMARY OF THE RECORD

The applicant retired from the Coast Guard on May 31, 1994, after serving more than 24 years on active duty. Her Coast Guard DD 214 and other Coast Guard records reflect her former male name, which is not her current name. Her DD 214 shows that she earned the following medals and awards during her Coast Guard career:

- CG Bicentennial Unit Commendation Ribbon
- CG Pistol Marksman Ribbon
- CG Commendation Medal
- Fourth Good Conduct Medal
- National Defense Service Medal
- Humanitarian Service Medal
- CG Meritorious Unit Commendation
- Sea Service Ribbon
- Commandant's Letter of Commendation
- CG Achievement Medal

The applicant's record shows that she served aboard one cutter from June 20, 1974, to September 24, 1976, and aboard another cutter from October 15, 1976, to June 4, 1979. She also served at the CG TISCOM in the early 1990s. Her DD 214 shows that she performed 4 years, 10 months, and 25 days of sea duty.

### APPLICABLE REGULATIONS

COMDTINST M1900.4D, the Commandant's instruction for preparing DD 214s, states that Block 13 of the DD Form 214 should list all decorations, medals, badges, commendations, citations, and campaign ribbons awarded or authorized for all periods of service.

Chapter 3.B. of the Coast Guard Military Medals and Awards Manual states that the Coast Guard Unit Commendation (UC) was authorized by the Commandant on November 13, 1973, and may be awarded to any unit that has distinguished itself by valorous or extremely meritorious service not involving combat but in support of Coast Guard operations. The manual states that the TISCOM received the UC for service from June 1, 1992, to June 30, 1996; July 1, 1998, to January 31, 2000; and August 1, 2002, to July 31, 2005.

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

On October 29, 2019, a judge advocate (JAG) of the Coast Guard recommended that the Board grant partial relief in this case and adopted the findings and analysis provided in a memorandum on the case submitted by the Commanding Officer, Coast Guard Personnel Service Center (PSC), who also recommended granting partial relief.

PSC stated that the applicant provided a copy of her name change from the court as proof that she changed her name subsequent to her retirement from the Coast Guard. Accordingly, the PSC determined that she is the same person as the veteran whose name appears below her name in the case caption above. The Coast Guard created a new DD 214 reflecting her new name and delivered the new DD 214 to the Board with its advisory opinion, which the Board mailed to the applicant.

Regarding the applicant's requests for additional medals and awards, PSC determined that she is eligible to receive the Overseas Service Ribbon because her record shows that she served a 24-month tour in at an overseas LORAN station. PSC also determined that she is eligible to receive the Coast Guard "E" Ribbon because the crew of the cutter she served on was awarded the ribbon for service from May 30, 1976, to June 25, 1976, and the applicant served aboard that cutter from June 20, 1974, to September 24, 1976. PSC included these two medals on the new DD 214 issued to the applicant.

PSC argued that the applicant's request to have a Coast Guard Unit Commendation Ribbon should be denied because there is nothing in her record to show that she served at a unit that received the ribbon.

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

On November 19, 2019, the Chair sent the applicant a copy of the views of the Coast Guard and invited her to respond within thirty days. The Chair did not receive a response.

### **FINDINGS AND CONCLUSIONS**

The Board makes the following findings and conclusions based on 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 to the Board must be filed within three years after the applicant discovers the alleged error or injustice.<sup>2</sup> In this case, the applicant retired on May 31, 1994, legally changed her name in 2009, and submitted her application approximately ten years later. Therefore, her application was not timely filed. However, the Board finds that it is in the interest of justice to consider this case on the merits because of the potential for injustice to the applicant and numerous recent decisions granting relief in similar cases issued by the military correction boards. Moreover, the Coast Guard has identified clear omissions on her DD 214 which should be corrected.

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<sup>2</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

2. The applicant alleged that her DD 214 is erroneous and unjust because it does not reflect her new name and gender and does not list all the medals and awards that she earned. In considering allegations of error and injustice, the Board begins its analysis in every case by presuming that the disputed information in the veteran's military record is correct, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.<sup>3</sup> Absent evidence to the contrary, the Board presumes that Coast Guard officials have carried out their duties "correctly, lawfully, and in good faith."<sup>4</sup>

3. The applicant submitted a copy of a court document showing a name change, and her former name is the same as that of the veteran whose name appears second in the caption above. Her application shows that her Social Security number is the same as that of the veteran. Therefore, the Board finds that the applicant has proven by a preponderance of the evidence that she is the veteran whose name appears second in the caption above and that she has changed her legal name since her discharge from the Coast Guard.

4. Until 2014, the military correction boards generally refused to reissue DD 214s when veterans have changed their name and gender, noting that their DD 214s were accurate when they were issued, as required by policy.<sup>5</sup> In late 2014, however, the Army BCMR began directing the Army to reissue DD 214s for transgender applicants in their new names based on a finding that denying relief might prevent or delay these veterans from receiving benefits.<sup>6</sup> The Navy, Air Force, and Coast Guard correction boards have followed suit based on arguments of potential employment discrimination and potential denial or delay of veterans' benefits.<sup>7</sup> These decisions require the military services to issue a new DD 214 (rather than a DD 215) in the veteran's new name and to retain the old DD 214 and the decision of the Board in the applicant's military record for historical purposes and to explain why the name on the new DD 214 does not match the name on the rest of the veteran's military records.<sup>8</sup>

5. Although Chapter 1.D.2. of COMDTINST M1900.4D requires DD 214s to be accurate as of the date of discharge, this rule may have an unjust impact on transgender veterans, whose prior gender is revealed when they present their DD 214s. The disclosure of their prior gender exposes them to potential prejudice in gaining employment as well as to potential delay in gaining benefits. The impact of the rule in COMDTINST M1900.4D on transgender veterans is

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<sup>3</sup> 33 C.F.R. § 52.24(b).

<sup>4</sup> *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

<sup>5</sup> Docket No. 20110019856 (Army BCMR, April 17, 2012); Docket No. 20060017156 (Army BCMR, July 10, 2007); Docket No. 20040007301 (Army BCMR, June 30, 2005); Docket No. 896-01 (Navy BCNR, April 6, 2001); Docket No. 7208-00 (Navy BCNR, May 21, 2001); Docket No. 1854-00 (Navy BCNR, June 7, 2001); Docket No. 99-00837 (Air Force BCMR, 1999); Docket No. 2000-151 (Coast Guard BCMR, May 17, 2001); Docket No. 2008-181 (Coast Guard BCMR, Feb. 26, 2009).

<sup>6</sup> *See, e.g.*, Army BCMR Docket Nos. 20140003251, 20140021645, 20140001946.

<sup>7</sup> *See, e.g.*, CGBCMR Docket Nos. 2017-118 (Decision of the Principle Deputy General Counsel, Jan. 9, 2018), 2015-090, 2015-117, 2015-119, 2016-058, 2016-134, 2016-179, 2017-057, 2017-063; Asst. Secretary of the Navy for Manpower & Reserve Affairs, BCNR FAQs, at [http://www.secnav.navy.mil/mra/bcnr/Pages/FAQ\\_and\\_Key\\_Information.aspx#1](http://www.secnav.navy.mil/mra/bcnr/Pages/FAQ_and_Key_Information.aspx#1); AFBCMR Docket No. BC-2014-01340.

<sup>8</sup> *Id.*; AFBCMR Docket No. BC-2003-04051.

potentially much more severe and intrusive than it is on veterans who change their names for other reasons, such as marriage or divorce.<sup>9</sup> Moreover, courts have found that a person has a privacy interest in his or her gender history, which is considered an intimate and “excruciatingly private” matter.<sup>10</sup>

6. The Board agrees with the Coast Guard that the applicant should receive a new DD 214 with her current name, but the Coast Guard has already issued her a new DD 214 so the issue is moot. However, the Board will direct the Coast Guard to retain a copy of her prior DD 214 in her record along with a copy of this decision to explain why the name on her new DD 214 does not match the name on her other military records.

7. The applicant asked the Board to correct her record to show that she earned the Coast Guard “E” Ribbon and the Overseas Service Ribbon. The Coast Guard determined that she is eligible to receive these medals and documented them on the new DD 214 that it prepared with the applicant’s new name. Accordingly, the Board finds that this issue is moot.

8. The Coast Guard recommended that the applicant’s request for a Coast Guard Unit Commendation be denied because her record does not contain anything showing that she was assigned to a unit that received the UC. The Board disagrees. Her record shows that she was assigned to CG TISCOM in the early 1990s, and Enclosure (5) to the Medals and Awards Manual, COMDTINST M1650.25D states that CG TISCOM received the UC for service between June 1, 1992, to June 30, 1996. Therefore, the applicant has proven by a preponderance of the evidence that she is eligible to wear this medal.

9. The Coast Guard has already provided the applicant with a corrected DD 214 reflecting her new name and showing that she received the Coast Guard “E” and Overseas Service Ribbons. Accordingly, the Board finds that her request for these three corrections is moot. The Board should, however, order the Coast Guard to correct her record to show that she is eligible to receive the Coast Guard Unit Commendation and document it on a DD 215 correcting her new DD 214.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>9</sup> The Board notes that although disparate impact analysis has been applied primarily in employment law cases for protected groups, following *Griggs v. Duke Power Company*, 401 U.S. 424 (1971), by analogy, the legal reasoning in those decisions is applicable in this case.

<sup>10</sup> *Powell v. Schriver*, 175 F.3d 107, 112 (2nd Cir. 1999), citing *Whalen v. Roe*, 429 U.S. 589, 600 (1977) (citing *Griswold v. Connecticut*, 277 U.S. 438 (1965), and *Roe v. Wade*, 410 U.S. 113 (1973)).

**ORDER**

The application of CWO4 [REDACTED] USCG (formerly known as [REDACTED]) for correction of her military record is granted. The Coast Guard shall issue a DD 215 to correct her DD 214 to show that she is eligible to receive the Coast Guard Unit Commendation for her service at TISCOM.

May 15, 2020

