


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-133


SK1 (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 application upon receiving the applicant's completed application on May 11, 2019, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated August 21, 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 stated that he is the veteran whose name appears second in the caption above and who was discharged in 1961. He asked the Board to correct his name on his DD 214 and throughout his military records to his new legal name. He stated that he legally changed his first and middle names in August 1979 and that he did so for professional reasons.

In support of his request, the applicant submitted a copy of an Order Changing Name issued by a State County District Court on August 8, 1979, showing that his prior name was the same as the veteran whose name appears second in the case caption above. He also submitted copies of the following documents, all bearing his current name: U.S. passport; Birth Registration Card issued by another State; Global Entry Card; Social Security card; State driver's license; State handgun license; Federal Aviation Administration pilot identification card and Mechanic Certificate; and a Voter Registration Card. The applicant also submitted a copy of his Honorable Discharge Certificate from the Coast Guard bearing his former name and showing that he was honorably discharged on August 9, 1961.

The applicant did not explain his long delay in submitting his application to the Board.

SUMMARY OF THE RECORD

The veteran served on active duty in the Coast Guard from August 10, 1953, through August 9, 1957, and was released into the Reserve to fulfill the remainder of his military service obligation. He was honorably discharged from the Reserve on August 9, 1961, and all of his Coast Guard records, including his DD 214, reflect the name shown second in the case caption above. The date of birth and place of birth in the veteran's Coast Guard records match those on the copies of the Birth Registration Card and the U.S. passport that the applicant submitted.

APPLICABLE REGULATIONS

Under COMDTINST M1900.4A, the Commandant's instruction for preparing DD 214s, "[a]ll entries [on the DD 214], unless specified otherwise, are for the current period of active duty only from the date of entry through the date of separation.

VIEWS OF THE COAST GUARD

On September 17, 2019, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion and adopted the findings and analysis in a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC recommended denying relief for untimeliness and because the applicant changed his first and middle names after his separation from the Coast Guard. Moreover, it stated that the Coast Guard is "not in the practice of changing all historical and/or source documents for life events" and that instead, documents substantiating these events are placed in the personnel data record and become part of the member's service record. Finally, PSC argued that the applicant's change of name occurred well after the end of his Coast Guard career and should not be considered part of his service record; nor should his DD 214 be reissued because it was accurate at the time it was issued.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 20, 2019, the BCMR sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. He responded on October 28, 2019, and disagreed with the Coast Guard's rationale for denying his request, but he did not state why he disagreed.

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 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 August 9, 1961; legally changed his name in 1979; and submitted his application to the Board on March 20, 2019, more

¹ 10 U.S.C. § 1552(b).

than 40 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 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. Although the applicant has shown that he is the veteran named in the case caption, he did not explain or justify why he waited more than 40 years after his name change to request correction of his name in his Coast Guard records and on his DD 214. 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 and this name is reflected in all his military records. As the Board has found in prior 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.”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 40 years. And he did not claim or show that he has been denied any military or veteran’s 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)

² *Id.*; 33 C.F.R. 52.22.

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 of former SK1 [REDACTED], USCG, for correction of his military record is denied.

August 21, 2020

