

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2019-191


SR (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 completed application on August 21, 2019, and assigned the case to the Deputy Chair to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated September 25, 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 1981. He asked the Board to correct his DD-214¹ by changing his name to his new legal name and to change his place of birth to a different city in the same state as the one currently shown.

To support his request, the applicant submitted a copy of his Certificate of Birth, which shows that his prior name was the same as the veteran's whose name appears second in the case caption above. The Certificate of Birth also shows that his name was changed by Court Order on June 17, 2015, and that the change was approved by the Commander of Health on September 21, 2015. Finally, the Certificate of Birth shows that his place of birth is the same city that he is requesting to have listed on his DD-214.

SUMMARY OF THE RECORD

The veteran enlisted in the Coast Guard on July 20, 1981, and was honorably discharged on September 1, 1981. His enlistment records show that his SSN is the same as the one the

¹ A DD-214 is prepared to document a member's release or discharge from a period of active duty and a DD-215 is used to collect or add information to a DD-214.

applicant provided on his application. They also show that the veteran's parents had the same names as the applicant's parents and that he was born in a place adjacent to the city shown on the applicant's birth certificate. The veteran's DD-214 reflects the name shown second in the case caption above. Further, his place of birth is listed in the Remarks section of his DD-214 as a different city in the same state as what is shown on the Certificate of Birth.

On October 7, 2019, the Personnel Service Center (PSC) sent a letter to the applicant. In the letter, PSC stated that the Coast Guard has issued the applicant a DD-215 to correct his place of birth as requested in his application. PSC enclosed a copy of the DD-215, which reflects the applicant's place of the birth shown on his Certificate of Birth.

VIEWS OF THE COAST GUARD

On January 29, 2020, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which she recommended that the Board grant partial relief in this case.

The JAG stated that PSC had already administratively corrected the applicant's place of birth by issuing him a DD-215. However, the JAG noted that the applicant's request to change his name on his DD-214 was not addressed by PSC.

The JAG argued that the applicant's request to change his name on his DD-214 should be denied because he failed to prove that the Coast Guard committed an error or injustice. The JAG acknowledged that the applicant provided sufficient evidence to establish that his name was legally changed in 2015. However, the JAG argued that the applicant failed to establish that his DD-214 does not reflect his legal name that he had while he served on active duty. Further, the JAG argued that the applicant failed to provide any evidence to support the claim that it would be unjust to leave his name unchanged on his DD-214.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 6, 2020, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. No response was received.

APPLICABLE LAW AND POLICY

Under COMDTINST M1900.4B, the Commandant's instructions for preparing DD-214s in effect in 1981, "[o]fficial corrections to the DD Form 214 are made ONLY by Commandant (G-PE), or Commandant (G-PO) on the standard correction form, the Certificate of Release or Discharge From Active Duty, (DD Form 215)."

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

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.² The applicant was discharged from the Coast Guard on September 1, 1981; legally changed his name on June 17, 2015; and submitted his application to the Board on August 21, 2019. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error in his record in 2015, and 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.³ 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”⁴ 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.”⁵ Pursuant to these requirements, the Board finds the following:
 - a. Although the preponderance of the evidence shows that the applicant is the veteran named in the case caption, he did not explain or justify why he waited more than 4 years after his name change to request correction of his name on his DD-214. He failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.
 - b. A cursory review of the merits of this case shows that the applicant's claim that the name on his DD 214 should be changed lacks potential merit. He 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 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....”⁶ 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 5 years. And he did not claim or show that he has been denied any military or veteran's benefits because of his name change.
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 applicant's request to change his name on his DD-214 should be denied.

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

³ 10 U.S.C. § 1552(b).

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

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

⁶ Dept. of Homeland Security, Board for Correction of Military Records, Docket 2009-060, Final Decision.

5. The Board acknowledges that the applicant's place of birth on his DD-214 is incorrect. However, PSC has already properly fixed this error by issuing the applicant a DD-215 with his correct place of birth. Therefore, no further action by the Board is required.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

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

September 25, 2020

