


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2020-006


MK3 (former)

FINAL DECISION

This is a proceeding under 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 24, 2019, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated June 26, 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 is a former Machinery Technician (MK) who served in the Coast Guard Reserve from August 30, 2004, to March 15, 2011. He asked the Board to correct his DD 214¹ to reflect his active duty service from December 11, 2005, to May 31, 2008. He also asked the Board to correct the DD 214 to show that he was an MK3 (E-4) at the time of his discharge from the Coast Guard Reserve. In support of his request, he submitted a copy of an honorable discharge certificate showing that he was discharged from the Coast Guard Reserve on March 15, 2011, and a copy of a Coast Guard Achievement Medal which states that on September 24, 2008, he was awarded the medal for superior service from December 11, 2005, to May 31, 2008.

The applicant stated that he discovered the alleged errors in his record on January 8, 2015, and argued that the Board should find it in the interest of justice to consider his application because "my full military time should reflect on my official record."

¹ The DD Form 214 provides the member and the service with a concise record of a period of service with the Armed Forces at the time of the member's separation, discharge or change in military status (reserve/active duty). In addition, the form is an authoritative source of information for both governmental agencies and the Armed Forces for purposes of employment, benefit and reenlistment eligibility, respectively. The DD 214 is issued to members who change their military status among active duty, reserve, or retired components or are separated/discharged from the Coast Guard to a civilian status. Reservists released from continuous active duty for training (ADT) less than 90 days are not eligible to receive a DD 214. COMDTINST M1900.4D.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard Reserve on August 31, 2004, for a term of six years and received a \$4,000 selected reserve (SELRES) bonus which required him to serve in the SELRES for 72 months. He attended recruit basic training from August 31, 2004, to October 22, 2004, and attended MK "A" School from December 6, 2004, to March 11, 2005.

The applicant received a DD 214 on March 14, 2005, and it shows that he was an E-3 at the time of his release from active duty (RELAD). Block 12.a. (Date Entered Active Duty This Period) shows that his active duty began on August 31, 2004; Block 12.b. (Separation Date This Period) shows that he was separated on March 14, 2005; and Block 12.c. (Net Active Service This Period) shows 6 months and 13 days. Block 14 (Military Education) shows that he completed 7 weeks of recruit basic training and 14 weeks of Machinery Technician (MK) "A" school. The DD 214 does not show that he had performed any prior active or inactive service.

The applicant's record also shows that he advanced to E-4 on September 14, 2005, while serving as a reservist and was honorably discharged from the Coast Guard Reserve on March 15, 2011. There is nothing in his record to show that he performed any extended period of active duty from December 11, 2005, to May 31, 2008.

APPLICABLE LAW AND REGULATIONS

Appendix C of the Personnel and Pay Procedures Manual, PPCINST M1000.2, states that when computing any pay related problem consider all months to have 30 days. Computations dealing with Creditable Service, Deductible Time (except when computing for EOE), 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. It also states the following:

- Never change the beginning date when doing computations.
- When your ending date is the last day of the month and other than the 30th, (as in the 31st or 28th/29th Feb) change it to the 30th, except for computation of Expiration of Enlistment.
- 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.

Article 2.A.14 of COMDTINST M1650.25E, the Coast Guard Medals and Awards Manual, states that the Coast Guard Achievement Medal may be awarded to a member who, while serving in any capacity with the Coast Guard, distinguishes themselves for professional and/or leadership achievement in a combat or non-combat situation based on sustained performance or specific achievement of a superlative nature which must be of such merit as to warrant more tangible recognition than the Commandant's Letter of Commendation Ribbon, but which does not warrant a Coast Guard Commendation Medal or higher award.

VIEWS OF THE COAST GUARD

On April 8, 2020, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion and recommended that the Board deny the applicant's requests but grant alternative relief. The JAG argued that the applicant's request to correct his DD 214 to show that he performed active service from December 11, 2005, to May 31 2008, and was an E-4 at the time of discharge should be denied because there is nothing in the record to show that he continued on active duty past the March 14, 2005, the separation date listed on his DD 214. The JAG also argued that the paygrade (E-3) listed on the applicant's DD 214 is correct because he did not advance to E-4 until September 14, 2005, which was six months after his DD 214 was issued.

The JAG argued that despite the applicant's claim that he continued on active duty through May 2008, he did not provide sufficient evidence of active duty during that period that would qualify him for issuance of another DD 214 in 2008, or upon separation from the reserve component in 2011. The JAG stated that had he been so entitled, he would have seen his advancement to E-4 on that DD 214. Finally, the JAG argued that the lack of a second DD 214 from 2008 or upon the conclusion of his reserve service is not erroneous and does not shock the sense of justice, as this aligns with Coast Guard policy.

The JAG recommended granting alternative relief, however, and argued that the applicant's DD 214 contains an error which should be corrected. The JAG noted that blocks 12.a. and 12.b. of his DD 214 and his Member Information Report show that he served on active duty from August 31, 2004, through March 14, 2005, but that his Honorable Discharge certificate shows that he separated on March 15, 2005.² The JAG stated that giving the applicant the benefit of this one-day difference, he served 197 days on active duty during the enlistment in question.

The JAG also noted that Block 12.c. of the applicant's DD 214 currently states that he served a total of 6 months and 13 days, but using the 30-day month requirement for calculating service required by the PSC Instruction,³ the applicant actually served 6 months and 17 days on active duty ($197/30 = 6$ months plus 17 remaining days). Therefore, the JAG argued, Block 12.c of his DD 214 is erroneous and should be corrected to read 06 months and 17 days. Accordingly, the Coast Guard recommended granting alternative relief in the form of a reissued DD 214 or DD 215 reflecting the correct separation date and net active service as described above. Finally, the JAG stated that the applicant may request a Statement of Creditable Service from CG-PPC using the following link: <https://www.dcms.uscg.mil/ppc/adv/socs/>.

² The Honorable Discharge Certificate submitted by the applicant shows that he was discharged on March 15, 2011.

³ Enclosure (1) to CGPSCINST 1900.IB, paragraph 2.P, states that when preparing the DD 214, Block 12.c (Net Active Service This Period) should contain the years, months, and days of active service from the date entered in block 12.a through the date in block 12.b. In accordance with reference (d), Creditable Service affects a member's pay and should be computed on a 30 day basis, with the exception of active duty periods of less than 30 consecutive days, which is always computed day-for-day, and the 31st day of the month is counted.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 7, 2020, the BCMR sent the applicant a copy of the Coast Guard's recommendation and invited him to submit a response. The Board 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 submission 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.⁴ The applicant was RELAD on March 14, 2005, and was discharged from the Coast Guard on March 15, 2011. Therefore, his application is untimely.

2. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.⁵ 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”⁶ 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.”⁷

3. The applicant did not explain why he waited so long to seek these corrections of his record and the Board finds that nothing prevented him from seeking correction of the alleged errors or injustices more promptly. However, because the Coast Guard has identified an error on his DD 214, the Board finds that it is in the interest of justice to waive the statute of limitations in this case.

4. The applicant argued that his DD 214 is incorrect because it does not document his active duty service from December 11, 2005, to May 31, 2008, nor show that he was an E-4 at the time of his discharge. The Board begins its analysis in every case by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁸ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.”⁹

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

⁵ 10 U.S.C. § 1552(b).

⁶ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁷ *Id.* at 164, 165; see also *Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

⁸ 33 C.F.R. § 52.24(b).

⁹ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

5. The applicant's record shows that he served on active duty in the reserves from August 31, 2004, to March 14, 2005, was an E-3 at the time of his RELAD, and was discharged from the Reserve on March 15, 2011. He alleged that he also served on active duty from December 11, 2005, to May 31, 2008, and argued that he should receive a DD 214 reflecting that service, but there is nothing in his official Coast Guard record documenting any period of active duty after March 14, 2005, that lasted 90 days or longer, which is required for a reservist to receive a DD 214. Nor did the applicant submit anything to prove that he served on active duty after his RELAD on March 14, 2005. The Board notes that he submitted a copy of an honorable discharge certificate showing that he was discharged from the Coast Guard Reserve on March 15, 2011, and a copy of a Coast Guard Achievement Medal for service from December 11, 2005, to May 31, 2008, but neither of these documents proves that he served on active duty from December 11, 2005, to May 31, 2008. The applicant's receipt of the Achievement Medal is not evidence of active duty, because Article 2.A.14 of the Medals and Awards Manual states that the medal may be awarded to members serving in any capacity, which includes the Reserve, so it is more probable than not that the applicant received the medal for his inactive service as a reservist. Therefore, the applicant has failed to prove by a preponderance of the evidence that he served on active duty from December 11, 2005, to May 31, 2008, and his request to add this time to his DD 214 should be denied.

6. The applicant also alleged that his DD 214 is erroneous because it does not reflect his promotion to E-4. The Board disagrees. His record shows that he was an E-3 upon his RELAD on March 14, 2005, and was advanced to E-4 on September 14, 2005, which is approximately six months after his RELAD. Because he was advanced to E-4 after the period of service documented on his DD 214, his advancement would not be reflected on the DD 214 that he received on March 14, 2005. Therefore, the Board finds that the applicant has failed to prove by a preponderance of the evidence that the E-3 paygrade on his DD 214 is erroneous, and his request should be denied.

7. The Coast Guard recommended that the Board grant alternative relief by correcting the information in Block 12.c. of the applicant's DD 214 from 00 years, 6 months, and 13 days to 00 years, 6 months, and 17 days. The Board agrees that Block 12.c. is incorrect, but disagrees with the JAG's recommendation as to what should be listed in Block 12.c. The applicant's DD 214 shows that he served on active duty from August 31, 2004, to March 14, 2005, and Block 12.c. of the DD 214 shows that his net active service for this period was 00 years, 6 months, and 13 days.

The Board finds, however, that Block 12.c. of his DD 214 should state 00 years, 6 months, and 14 days. Appendix C of the Personnel and Pay Procedures Manual, PPCINST M1000.2, states that when computing time for any pay-related problem, you subtract the start date (date of entry on active duty) from the end date (date of discharge from active duty) and add one "inclusive day." In addition, you should consider a months to equal 30 days, and the end date but not the start date should be corrected to the 30th if the end date is the last day of the month but not the 30th (e.g., if the end date is the 29th of February or the 31st of January, March, May, etc.). Therefore, when calculating the amount of net active duty that the applicant performed for inclusion in Block 12.c. on his DD 214, the following calculation should be used:

2005 03 14 (the end date as year, month, and day)
minus 2004 08 31 (the start date as year, month, and day)
plus 01 (inclusive day)

This calculation can be computed as follows, assuming a month equals 30 days and a year equals 12 months:

2004 14 44 (the end date as year, month, and day, adjusted)
minus 2004 08 31 (the start date as year, month, and day)
equals 0000 06 13
plus 01 (inclusive day)
equals 0000 06 14 (6 months and 14 days)

8. The applicant's request to correct his DD 214 to include active service from December 11, 2005, to May 31, 2008, and to show that he was an E-4 upon his RELAD should be denied, but alternative relief should be granted by ordering the Coast Guard to prepare a DD 215 correcting Block 12.c. of his DD 214 to show 00 years, 06 months, and 14 days of net active service. In addition, the Coast Guard should issue the applicant a statement of service documenting all his active and inactive service until his separation from the Coast Guard in March 2011 so that he will have documentation of his full military service.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former MK3 [REDACTED], USCGR, for correction of his military record denied, but alternative relief is granted. The Coast Guard shall issue him a DD 215 correcting Block 12.c. of his DD 214 to show his net active service as 00 years, 6 months, and 14 days. In addition, the Coast Guard shall issue him a statement of service documenting all his active and inactive service until his separation from the Coast Guard in March 2011.

June 26, 2020

