

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2020-045



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 November 27, 2019, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated March 25, 2022, 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, a former Lieutenant Junior Grade (LTJG) who served on active duty in the Coast Guard from 1984 to 1988, asked the Board to provide him with an updated DD 214¹ reflecting his service in the reserves from October 1, 1988, to October 1, 1993. He stated that he enlisted in the reserves immediately upon leaving active duty and argued that his DD 214 should reflect all of his service.

The applicant stated that he discovered the alleged errors in his record on November 7, 2019, and argued that the Board should find it in the interest of justice to consider his application because all of his military service should be "recorded accurately."

SUMMARY OF THE RECORD

The applicant served on active duty in the Coast Guard from May 23, 1984, through September 30, 1988. He received a DD 214 upon his discharge and Block 12.a, Date Entered Active Duty This Period, indicates that his active service began on July 7, 1980. Further, Block 12.c, Net Active Service This Period, indicates that he had served 8 years, 2 months, and 24 days.

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 correct or add information to a DD 214.

On March 2, 1992, the Coast Guard issued the applicant a DD 215 correcting Block 12.a on his DD 214 to May 23, 1984, and correcting Block 12.c to 4 years, 4 months, and 8 days.

The applicant's Coast Guard military record includes a Statement of Creditable Service, which shows that he served on active duty in the Coast Guard from May 23, 1984, to September 30, 1988, and served in the Coast Guard Reserve from October 1, 1988, to September 30, 1994. Finally, his record contains a Coast Guard Reserve Retirement Points Statement which shows that his Pay Base Date is May 23, 1984.

VIEWS OF THE COAST GUARD

On April 15, 2020, 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 argued that the application is untimely. Regarding the merits of the case, PSC argued that the applicant's request should be denied because he failed to show that an error or injustice had occurred. According to the Commandant's instructions for completing the DD 214, the form should be issued upon release or discharge from active duty. PSC argued that the applicant's DD 214 and DD 215 correctly document his active service from May 23, 1984, to September 30, 1988. Further, PSC argued that the applicant is not entitled to have his time in the Coast Guard Reserve reflected on his DD 214.

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, including a legible copy of his DD 214, DD 215, Computation of Retirement Point Credits, Coast Guard Reserve Retirement Points Statement, and invited him to submit a response. The Board did not receive a response.

APPLICABLE LAW AND REGULATIONS

Chapter A.1.a. of the Commandant's instructions for completing the DD 214, COMDTINST 1900.4B, states that a DD 214 will be furnished at the time of separation from a period of active service or temporary active duty.

Chapter 1.B.10. of the the Commandant's instructions for completing the DD 214 in 1993, COMDTINST 1900.4D, states that a DD 214 will not be issued to reservists released from continuous active duty for training of less than 90 days.

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.

2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.² The applicant received a DD 214 on September 30, 1988, and was discharged from the Coast Guard Reserve on September 30, 1994. Therefore, 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 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. The applicant did not explain or justify why he waited more than 25 years after his discharge from the Coast Guard Reserve to request correction of his military record. 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 lacks potential merit. He asked the Board to change his DD 214 to reflect his service in the Coast Guard Reserve. However, the applicant failed to show that his DD 214 is erroneous or unjust. According to the Commandant’s instructions for completing the DD 214, a member’s DD 214 should be issued at the time of separation from a period of active service. In this case, the applicant’s DD 214 and DD 215 correctly document his period of active duty from May 23, 1984, to September 30, 1988. Further, the instructions state that a DD 214 will not be issued to reservists unless the member completes at least 90 days of continuous active duty for training. There is nothing in the record, nor did the applicant submit anything, to show that he performed active duty for training for at least 90 days. The disputed record is presumptively correct,⁶ and the record contains no evidence that substantiates his allegations of error or injustice in his official military record.

4. Accordingly, the Board will not excuse the application’s untimeliness or waive the statute of limitations and his request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

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

³ *Id.*; 33 C.F.R. 52.22.

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 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.”).

