

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2021-050


TCC (Retired)

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 12, 2020, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated October 11, 2023, 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 Retired Chief Telecommunications Specialist (TCC/E-7), asked the Board to correct block 12c, "Net Active Service this Period," of his discharge form DD-214 dated May 30, 1997, to reflect the actual amount of time he spent on active duty during his original active duty enlistment. According to the applicant, block 12a of his DD-214 erroneously shows that he entered service on August 1, 1972, and block 12c shows that his total active service for that period is 24 years and 10 months, but he actually entered service on August 28, 1968, giving him approximately 28 years of total active service. The applicant asked the Board to reflect these changes in a new DD-214 and to have his pay adjusted for the years he was not paid.

SUMMARY OF THE RECORD

On August 30, 1968, the applicant enlisted in the regular Coast Guard for 4 years. The applicant twice extended this enlistment contract, once for 4 months and the second time for 2 years. A DD-214 in his record documents his first enlistment and shows that he was discharged on December 27, 1974, having served a total of 6 years, 3 months, and 28 days of active duty.

On January 14, 1976, the applicant enlisted in the Coast Guard Reserve for 3 years. The applicant was discharged on January 13, 1979, and immediately reenlisted in the Reserve for another 6 years. But on March 5, 1981, he was discharged from the Reserve for the purpose of

immediately reenlisting in the regular Coast Guard. A DD-214 in his record shows that as a reservist, the applicant served on extended active duty for two years and one day from January 5, 1979, through March 5, 1981.

On March 6, 1981, the applicant reenlisted in the regular Coast Guard, and he remained on active duty until he retired on May 30, 1997.¹ The applicant’s total active duty service for this period was 16 years, 2 months, and 25 days.

On September 12, 1997, the Coast Guard issued the applicant a “Statement of Creditable Service” wherein it provided the applicant with an overview of his total creditable active and inactive duty. The “Total Time” in brackets is inactive duty, while the “Total Time” not in brackets is active duty:

ENTERED	RELEASED	BRANCH	RATE/RANK	TOTAL TIME
AEZ 680830	DISCH 741227	USCG	RM2/E5	06 03 28
HEZ 760114	761003	USCGR	RM1/E6	<00 08 20>
HEH 761004	761015	USCGR	RM1/E6	00 00 12
HEZ 761016	771106	USCGR	RM1/E6	<00 00 21>
HEE 771107	771118	USCGR	RM1/E6	00 00 12
HEZ 771119	780618	USCGR	RM1/E6	<00 07 00>
HEE 780619	780630	USCGR	RM1/E6	00 00 12
HEZ 780701	7901014	USCGR	RM1/E6	<00 06 04>
FEB 790105	810304	USCGR	RM1/E6	02 02 00
AEZ 810305	RETIRED 970531	USCG	TTC/E7	16 02 25

<u>TOTAL ACTIVE SERVICE:</u> 24 10 00	<u>TOTAL SERVICE FOR PAY:</u> 27 08 15
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VIEWS OF THE COAST GUARD

On October 26, 2021, a Judge Advocate (JAG) for the Coast Guard submitted an advisory opinion in which he recommended that the Board grant alternate relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

¹ Although the Statement of Creditable Service indicates that the applicant reenlisted on March 5, 1981, his signed reenlistment contract shows that he reenlisted on March 6, 1981. The accuracy of the reenlistment contract is supported by the fact that his command issued him a DD-214 dated March 5, 1981, to document his last day on active duty as a reservist.

The JAG explained that the applicant's belief that his net active service provided on his DD-214 is erroneous and that according to his calculations, he has additional active service that was not listed on his DD-214 is incorrect. The JAG stated that while the DD-214 provided to the applicant is inaccurate in the dates of service provided for in block 12, the DD-214 is correct in the total active service time calculated and reflected on the DD-214. The JAG stated that the applicant had three periods of active duty service and has accurate DD-214s for the first two, but his third DD-214 should reflect only his third period of active duty time starting in 1981 and ending in 1997. The JAG argued that only these corrections should be reflected in block 12.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On November 26, 2021, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. The Chair received the applicant's response on February 8, 2022.

The applicant stated that he firmly believes that his net active duty time is erroneous as stated on his DD-214 provided to him at retirement. According to the applicant, he is getting shortchanged by about 2 years of active duty service. The applicant explained that his reason for believing an error exists is based on the following memories:

At the end of 1978 or beginning in 1979, he was laid off from a private company due to his plant's closure. At that time, the applicant was in the Coast Guard Reserve completing his active duty training, when the President of the United States announced that he would be giving the military a 15% across the board pay raise. The applicant did not think twice and informed the appropriate individuals that he wanted to return to active duty as soon as possible. A couple of days later, a notice came through informing his Command to give him a physical examination, and if he passed, to place him back on active duty. All of this took place in late 1978 or early 1979.

The applicant alleged that the January 7, 1987, "In Lieu of Reenlistment to Remain on Active Duty," contract seems suspicious and erroneous because it has him allegedly signing for another 6 years as a Reservist, when he was eagerly looking for a permanent job in the Regular Coast Guard. The applicant further alleged that his signature is missing from the form. The applicant stated that he did not agree with the Coast Guard's statement that he had 3 periods of active duty, because he only recalls two—August 30, 1968, through December 24, 1975, and 1978/1979 through May 31, 1997. The applicant alleged that anything between those dates was spent as a Reservist. The applicant stated that he had no idea how the Coast Guard calculated his 4 years, 1 month, and 21 days of active duty service while in the Reserve. The applicant explained that he has no recollection of any other incidents or dates that would clarify or otherwise change the facts of his career. The applicant further explained that he has no records to support his claims or statements and that all the information he provided is based on his recollections.

APPLICABLE LAW AND POLICY

The Certificate of Release or Discharge from Active Duty, DD-214, Manual, PSCINST M1900.1B, provides the following relevant guidance on how "Net Active Service" should be reflected on a DD-214:

2. Block by Block Completion of the DD-214.

...

p. Block 12c. Net Active Service This Period.

Enter 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 members 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, until the 31st of the month is counted. **Deduct all periods of lost time.**

The DD-214 Manual also provides the following example of how to calculate the Net Active Service in block 12c from the start date and the separation date in blocks 12a and 12b, respectively. The instructions are the same as those for calculating all active duty time in Appendix C of the Personnel and Pay Procedures Manual. In calculating time according to these manuals, months are always treated as equal to 30 days, and when subtracting one date from another, an “inclusive day” is always added.

12b.	2010 10 02	Separation date
12a.	- 1999 12 02	Current AD start date
	10 10 00	
	+ 01	Inclusive day
12c.	10 10 01	Net AD this period

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 over this matter under 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

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 and signed the erroneous DD-214 on June 8, 1994. Therefore, the preponderance of the evidence shows that he knew of the alleged errors in 1994 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

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

³ 10 U.S.C. § 1552(b).

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 Although the applicant in this case did delay filing the application and has not justified his delay, the Coast Guard has recommended that the Board grant alternate relief in this case. Therefore, the Board finds that it is in the interest of justice to excuse the untimeliness of the application.

4. In accordance with the DD-214 Manual, a DD-214 is issued to document a period of active duty when a member is separated from active duty for more than 24 hours or changes status (e.g., Reserve vs. regular, or enlisted vs. officer) while serving on active duty. A DD-214 is not issued when a member on active duty reenlists on active duty without changing status or when a reservist serves on active duty for a period of fewer than 90 days. The Board’s review of the applicant’s record shows that he was properly issued three separate DD-214s throughout his Coast Guard career to document different periods of active duty: The first DD-214 documented his first enlistment in the regular Coast Guard from August 30, 1968, to December 27, 1974. The second DD-214 was issued to document a period of continuous active duty as a reservist from January 5, 1979, through March 5, 1981, because he was about to change status by reenlisting in the regular Coast Guard. And the third DD-214 was issued to document his active duty in the regular Coast Guard from his reenlistment on March 6, 1981, through his retirement on May 30, 1997. Although the DD-214s were issued at the correct points in his career, certain entries on the DD-214s are erroneous, as explained below:

a. The applicant’s first DD-214 was issued on December 27, 1974, to document his active duty that began on August 30, 1968. The applicant’s total active duty service for this period was 6 years, 3 months, and 28 days, as shown in block 12c of the DD-214; on his Statement of Creditable Service; and in the calculation below (with a month carried over as 30 days to allow the subtraction):

12b.	1974 12 27	Separation date (for the subtraction: 1974 11 57)
12a.	<u>- 1968 08 30</u>	Minus the start date of the enlistment period
	06 03 27	
	+ 01	Inclusive day ⁶
12c.	<u>06 03 28</u>	Net active duty this period

This first DD-214 also shows no prior active service and no prior inactive service. The DD-214 is presumptively correct, and the applicant has not submitted evidence to show that it is erroneous. Therefore, his first DD-214 does not require correction.

b. The applicant’s record further shows that following his discharge from the regular Coast Guard on December 27, 1974, he waited a year and enlisted in the Coast Guard Reserve on January 14, 1976. As a reservist, he drilled and performed three 12-day stints

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 In subtracting one date from another date to determine the duration of a period, the DD-214 manual and the Personnel and Pay Procedures Manual require adding one “inclusive day.”

of annual Active Duty training (ADT) in 1976, 1977, and 1978, totaling 36 days of ADT, as shown on his Statement of Creditable Service.

c. The applicant’s second DD-214 and Statement of Creditable Service shows that while still a reservist, he began performing continuous active duty on January 5, 1979. Although continuing to perform active duty, he was issued his second DD-214 on March 5, 1981, because he changed status by leaving the Reserve to reenlist in the regular Coast Guard. The DD-214 correctly shows 2 years, 2 months, and 1 day of net active duty this period from January 5, 1979, though March 5, 1981, because he reenlisted in the regular Coast Guard on March 6, 1981:

12b.	1981 03 05	Separation date (end of active duty as a reservist)
12a.	<u>- 1979 01 05</u>	Minus the start date of continuous active duty
	02 02 00	
	<u>+ 01</u>	Inclusive day
12c.	02 02 01	Net active duty this period

d. The applicant’s second DD-214 also shows 6 years, 3 months, and 28 days of prior active duty, which is the active duty shown on his first DD-214. However, the second DD-214 erroneously does not include the 36 days of active duty that the applicant performed for annual training in 1976, 1977, and 1978. The total prior active duty shown on the applicant’s second DD 214 should be 6 years, 3 months, and 28 days of prior active duty plus the 36 days of ADT he performed as a reservist because that is how much active duty he had performed when he entered on continuous active duty on January 5, 1979. In adding military time, 30 days equals a month, so 36 days equals 1 month and 6 days. Adding 1 month and 6 days of active duty to the 6 years, 3 months, and 28 days of active duty documented on his first DD-214, makes a total of 6 years, 5 months, and 4 days of total prior active duty (prior to January 5, 1979). Therefore, the applicant’s second DD-214, issued on March 5, 1981, should be corrected to show 6 years, 5 months, and 4 days of total prior active duty in block 12d.

e. The applicant’s second DD-214 also shows 2 years, 11 months, and 21 days of total prior inactive duty as of January 4, 1979, his last day on inactive duty as a reservist. This total of prior inactive duty is erroneous because it includes the 36 days of ADT, which should be counted as prior active duty, not prior inactive duty, on this DD-214. Therefore, to calculate his total prior inactive service, his Reserve enlistment date, January 14, 1976, and the 36 days (1 month and 6 days) of ADT must be subtracted from his last day on inactive duty as a reservist, which was January 4, 1979, and an “inclusive day” must be added.

	1979 01 04	Inactive duty end date (for the subtraction: 1978 12 34)
	<u>- 1976 01 14</u>	Minus the start date of inactive duty
	02 11 20	
	<u>+ 01</u>	Inclusive day
	02 11 21	
	<u>- 01 06</u>	Minus 36 days (1 month, 6 days of ADT)
	02 10 15	Total prior inactive duty

Therefore, the applicant’s second DD-214 should also be corrected to show 2 years, 10 months, and 15 days of total prior inactive duty in block 12e.

f. The applicant’s third DD-214 is clearly erroneous as the start date is August 1, 1972, which is not a date that the applicant began any period of active duty and makes the third DD-214 erroneously count periods of inactive duty and periods of active duty documented on the applicant’s first two DD-214s as part of the net active duty in block 12c, which is not allowed. The applicant’s reenlistment contract shows that after serving on continuous active duty as a reservist from January 5, 1979, to March 5, 1981, and receiving his second DD-214 for that period, the applicant reenlisted in the regular Coast Guard on March 6, 1981, and he remained on active duty in the regular Coast Guard until he retired on May 30, 1997. Therefore, as the Coast Guard stated, blocks 12a and 12b of his third and final DD-214 should show March 6, 1981, and May 30, 1997, respectively. In addition, his third DD-214 should document 16 years, 2 months, and 25 days of net active duty this period in block 12c, as shown below.

12b.	1997 05 30	Separation date
12a.	- <u>1981 03 06</u>	Minus the start date (reenlistment in regular Coast Guard)
	16 02 24	
	+ 01	Inclusive day
12c.	16 02 25	Net active duty this period

g. The applicant’s third DD-214 shows zero prior active duty, which is clearly erroneous. When the applicant reenlisted in the regular Coast Guard on March 6, 1981, he had served the 6 years, 3 months, and 28 days of active duty documented in block 12c of his first DD-214; the 36 days (1 month and 6 days) of ADT he performed as a reservist in 1976, 1977, and 1978; and the 2 years, 2 months, and 1 day of continuous active duty as a reservist documented on his second DD-214. Therefore, as the Coast Guard stated, block 12d of the applicant’s third and final DD-214 should be corrected to show 8 years, 7 months, and 5 days of total prior active duty, as shown below:

	06 03 28	Time on active duty from first DD-214
+	00 01 06	36 days of ADT
+	<u>02 02 01</u>	<u>Time on active duty as a reservist from second DD-214</u>
	08 06 35	(which equals 8 years, 7 months, 5 days)

h. The applicant’s third DD-214 shows 2 years, 10 months, and 16 days of prior inactive duty, which is also erroneous. At the time of his retirement, the applicant had not served more time in the Reserve beyond what should have been documented on his second DD-214. Therefore, as the Coast Guard stated, block 12e of the applicant’s third and final DD-214 should be corrected to show 2 years, 10 months, and 15 days of total prior inactive duty, as shown in paragraph e, above.

5. The applicant alleged that his total active duty service, as calculated by the Coast Guard, is erroneous and missing 2 years of active duty. The Board finds, however, that the applicant has failed to prove, by a preponderance of the evidence, that the Coast Guard “shortchanged” the applicant two years of active duty service. The preponderance of the evidence,

including the Statement of Creditable Service and enlistment and extension contracts in the applicant's record, shows that the applicant's third and final DD-214 should reflect 16 years, 2 months, and 25 days of net active duty for "this period" and 8 years, 7 months, and 5 days of prior active duty, for a total of 24 years and 10 months of active duty, as well as 2 years, 10 months, and 15 days of prior inactive duty as a reservist in 1976, 1977, and 1978.

6. Accordingly, the Board finds that the applicant's request to change his record to reflect an additional two years of active duty service should be denied, but alternative relief should be granted so that his DD-214s will be accurate. Specifically, the following corrections should be made to his second and third DD-214s:

- (1) His second DD-214, issued on March 5, 1981, should be corrected by—
 - a. correcting block 12d to show 6 years, 5 months, and 4 days of "Total Prior Active Service" and
 - b. correcting block 12e to show 2 years, 10 months, and 15 days of "Total Prior Inactive Service".

- (2) His third DD-214, issued on May 30, 1997, should be corrected by—
 - a. correcting block 12a to show March 6, 1981, as the "Date Entered Active Duty This Period";
 - b. correcting block 12c to show 16 years, 2 months, and 25 days of "Net Active Service This Period";
 - c. correcting block 12d to show 8 years, 7 months, and 5 days of "Total Prior Active Service"; and
 - d. correcting block 12e to show 2 years, 10 months, and 15 days of "Total Prior Inactive Service."

Although the preponderance of the evidence shows that the applicant's second and third DD-214s contained several errors, a veteran's retirement pay is unrelated to the entries on a DD-214 and is instead determined by the Coast Guard's pay database, known as Joint Uniform Military Pay System (JUMPS), using a service member's Statement of Creditable Service.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of TCC [REDACTED] [REDACTED] USCG (Retired), for the correction of his military record is denied, but alternate relief is granted. The Coast Guard shall make the following corrections to his DD-214s either by issuing a DD-215 or by issuing a new DD-214:

- (1) The Coast Guard shall correct his DD-214 issued on March 5, 1981, by—
 - a. correcting block 12d to show 6 years, 5 months, and 4 days of “Total Prior Active Service” and
 - b. correcting block 12e to show 2 years, 10 months, and 15 days of “Total Prior Inactive Service”.

- (2) The Coast Guard shall correct his DD-214 issued on May 30, 1997, by—
 - a. correcting block 12a to show March 6, 1981, as the “Date Entered Active Duty This Period”;
 - b. correcting block 12c to show 16 years, 2 months, and 25 days of “Net Active Service This Period”;
 - c. correcting block 12d to show 8 years, 7 months, and 5 days of “Total Prior Active Service”; and
 - d. correcting block 12e to show 2 years, 10 months, and 15 days of “Total Prior Inactive Service.”

October 11, 2023

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