

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2022-041**

██████████ ██████████ ██████████  
SR (former)

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**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 applicant's completed application on April 26, 2022, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated December 1, 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 former seaman recruit (SR/E-1) who was dishonorably discharged from the Coast Guard in 2018 and received one DD 214<sup>1</sup> covering his entire active service from 2002 to 2018, asked the Board to issue him a separate DD 214 documenting his honorable service from December 16, 2002, to May 27, 2008. In the alternative, he asked that his current DD 214 be corrected to document his honorable service for that period. The applicant claimed that a supervisor with the Department of Veterans Affairs advised him that he needed to have his honorable periods of service separated so the "VA can complete his character of discharge."

In support of his application, he argued that he is eligible to receive a separate DD 214 documenting his honorable service from 2002 to 2008 because he had multiple enlistments and periods of honorable service that should be documented on separate DD 214s.

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<sup>1</sup> 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. COMDTINST M1900.4D.

The applicant stated that the alleged error occurred on July 12, 2018, and that he discovered them in his record on April 4, 2022. He argued that the Board should waive the statute of limitations and consider his application in the interest of justice.

**SUMMARY OF THE RECORD**

Before enlisting in the Coast Guard, the applicant served in the Army National Guard and was honorably discharged on December 15, 2002. He enlisted in the Coast Guard on December 16, 2002, was discharged and immediately reenlisted on May 28, 2008. He was then discharged and immediately reenlisted on May 27, 2014, after being sentenced to confinement pending court martial. In 2017, he was found guilty of rape and sexual assault at court martial and was sentenced to five months confinement (in addition to time served), reduction in rank to E-1, and a dishonorable discharge.

The applicant's DD 214 shows that he was dishonorably discharged on July 12, 2018. The Remarks section of the DD 214 includes the following entries:

DATES OF NON-PAY: APPELLATE LEAVE 2017 08 03 TO 2018 07 12.  
DATES OF NON-PAY: CONFINEMENT 2014 05 17 TO 2017 08 02.

. . .

DATES OF CONTINUOUS HONORABLE SERVICE 2002 12 16 TO 2008 05 27;  
THIS DD FORM 214 COVERS MULTIPLE ENLISTMENTS AS REFLECTED IN BLOCK 12.  
THE PERIOD OF SERVICE FOR EACH IS AS FOLLOWS:  
PERIOD OF SERVICE: 2002 12 16 TO 2008 05 27  
PERIOD OF SERVICE: 2008 05 28 TO 2014 05 27

The applicant submitted his application to the Board on April 13, 2022.

**VIEWS OF THE COAST GUARD**

On July 19, 2022, 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 stated that the application is untimely and recommended that the Board deny relief because the applicant's DD 214 has the appropriate separation of enlistments showing which period of service is considered honorable.

Regarding the timeliness of the application, the JAG noted that the applicant alleged that the error occurred in 2018, but argued that he did not know there was an error or injustice until the VA informed him of the error in 2022. The JAG argued that the three-year statutory timeline starts when the applicant discovered, or reasonably should have discovered, the alleged error or injustice. Here, the JAG argued, the applicant was discharged on July 12, 2018, and was provided a DD 214 covering multiple periods of service within the one form. The JAG argued that the applicant should have become aware of the alleged errors back in 2018 when he was provided his DD 214. Therefore, the JAG argued, July 12, 2018, should stand as the beginning date of the three-year statute of limitations, and as such the application for relief is untimely.

The JAG argued that a cursory review shows that the applicant's documentation and argument are insufficient to prove error or injustice, and the applicant fails to show where in policy the Coast Guard was required to document his continuous enlistments on separate DD 214s. The JAG argued that his periods of service are already properly reflected on his DD 214 which specifically notes the period of continuous honorable service. As such, the JAG argued, there is no error or injustice on the DD 214 that the applicant received upon his separation from the Coast Guard. Further, the JAG argued, even if the VA advised the applicant that he needed to have his honorable periods of service separated, they are already separated on his DD 214.

### **APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On July 20, 2022, 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.

### **APPLICABLE LAW AND POLICY**

Chapter 1.B.6. of COMDTINST M1900.4D, the DD 214 Instruction in effect from September 1993 to April 2016, states that enlisted members being discharged for the purpose of immediate reenlistment are ineligible to receive a DD 214.

CGPSCINST 1900.1A, issued July 2017, is the instruction for completing DD 214s that was in effect when the applicant was discharged in 2018:

Chapter 4.b. of Enclosure 1 to the instruction states that a member's multiple enlistments can be documented in the remarks section of the DD 214 if the following conditions apply:

- (a) A member has multiple enlistments, and the member is being separated with a character of service of Under Honorable Conditions, Under Other than Honorable, Bad Conduct, or Dishonorable, and
- (b) The member has served on multiple enlistments from the date entered in block 12a. to the date entered in block 12b.

If these conditions are met, then the following statement shall appear in the remarks section:

“CONTINUOUS HONORABLE ACTIVE SERVICE FROM (applicable date) UNTIL (applicable date).”

The “from” date shall be the date of initial entry into active duty or the first day of service for which a DD-214 was not previously issued (Block 12a.), as applicable.

### **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.<sup>2</sup> The applicant was separated from active duty and received his DD 214 on July 12, 2018. He submitted his application to the Board on April 13, 2022. The preponderance of the evidence shows that the applicant knew of the alleged error—his receipt of only one DD 214 documenting all of his Coast Guard service—in 2018, and his application is untimely because it was submitted more than three years after he received his DD 214.

3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>3</sup> 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”<sup>4</sup> 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.”<sup>5</sup> 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 three years after his discharge 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. The applicant has not submitted any evidence of error or injustice. He alleged that the Coast Guard committed an error when it failed to issue him DD 214s for his earlier enlistments or to denote his period of honorable service on his single, final DD 214. However, COMDTINST M1900.4D provided that members discharged and immediately reenlisted were not eligible to receive a DD 214, and the Remarks block on the DD 214 that he received upon his discharge on July 12, 2018, states that the dates of his *honorable* service were December 16, 2002, through May 27, 2008. This notation is correct under Chapter 4.b of Enclosure 1 to CGPSCINST 1900.1A. Moreover, the disputed DD 214 is presumptively correct,<sup>6</sup> and the record contains no persuasive evidence that substantiates the applicant’s allegations of error or injustice.

4. 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)**

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

<sup>3</sup> *Id.*; 33 C.F.R. 52.22.

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

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

<sup>6</sup> 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.”).

**ORDER**

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

December 1, 2023

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