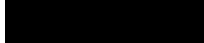


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-090


BM2 (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 applicant's completed application on July 17, 2024, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated May 1, 2025, 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 Boatswain's Mate second class (BM2) who was honorably discharged on March 17, 2020, asked the Board to correct his record by placing the word "none" in Block 29 (Dates of Time Lost During This Period) of his DD Form 214¹. Block 29 of his DD Form 214 is currently blank. He stated that he is trying to buy back his military time towards his federal retirement but that the Office of Personnel Management (OPM) is insisting that Block 29 of his DD Form 214 cannot be blank.

In support of his application, the applicant submitted a copy of his DD Form 214 and a copy of an email from his federal employer. The email states that while they understand that it is Coast Guard policy to leave Block 29 blank if there was no time lost, OPM "is the agency that handles the military deposits and we cannot override their ruling on the matter." He stated that he discovered the alleged error on his DD Form 214 on December 18, 2023.

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 Form 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.

SUMMARY OF THE RECORD

The applicant served on active duty in the Coast Guard from August 18, 2014 to March 17, 2020 and was honorably discharged after serving five years and seven months on active duty. Block 29 of his DD Form 214 is blank. There is nothing in his record documenting any periods of time lost.

VIEWS OF THE COAST GUARD

On December 26, 2024, a Judge Advocate (JA) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief. In doing so, he adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC recommended that the Board deny relief because according to Chapter 2.tt of PSC Instruction 1900.1, Block 29 of the DD Form 214 shall be completed as follows:

“Enter inclusive dates for all periods of time lost, whether pay was forfeited or not, during the period from the date of entry (Block 12a) to the date of separation (Block 12b). Include periods of unauthorized absence (UA), sickness due to misconduct (SKCM), confinement (CONF), or nonperformance of duty due to civil arrest (NPDI CIVIL). If there are no periods to report, leave this block blank.”

PSC argued that Block 29 of the applicant’s DD Form 214 is correct because there is no record of him having any periods of Unauthorized Absence (UA) or being Absent without Leave (AWOL) during his time of service. Therefore, PSC argued, leaving Block 29 blank on the applicant’s DD Form 214 is correct and in accordance with Coast Guard policy.

APPLICABLE LAW AND REGULATIONS

Chapter 2.tt of CGPSCINST 1900.1, the manual for the preparation of the DD Form 214 issued in May 2016, states that Block 29 of the DD Form 214 should include all periods of time lost, whether pay was forfeited or not, during the period from the date of entry (Block 12a) to the date of separation (Block 12b). If there are no periods to report, leave this block blank. Direct Access does not allow non-date format entries and will leave this block blank.

The 1990 and 1993 Commandant’s instructions for completing the DD Form 214 state that Block 29 should indicate “NONE” if there are no periods of time lost to report.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 15, 2025, the BCMR sent the applicant a copy of the Coast Guard’s recommendation and invited him to submit a response. He requested and was given a sixty-day extension to reply through April 15, 2025, but the Board did not receive a reply.

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 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 he 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 was discharged on March 17, 2020, and alleged that he discovered the error in his record on December 18, 2023. To determine whether his application is timely, the Board must decide what the preponderance of the evidence shows about his discovery of the alleged error.³

3. The applicant claims that he discovered the error in his record on December 18, 2023 when his employer told him that OPM would not allow him to buy back his military time until Block 29 of his DD Form 214 was corrected. Therefore, the preponderance of the evidence shows that his application is timely because there was no way for him to know about the alleged error prior to December 18, 2023.

4. The applicant asked the Board to correct his DD Form 214 by adding the word "NONE" to Block 29. When considering allegations of error and injustice, the Board begins its analysis 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.⁴ 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."⁵

5. The applicant's record shows that he served on active duty in the Coast Guard for more than five years and was honorably discharged on March 17, 2020 with no time lost. The Board notes that the Coast Guard's manual for preparing the DD Form 214 in 2020 states that Block 29 should be blank if there was no time lost during the period of time documented on the DD Form 214. However, OPM apparently will not allow the applicant to buy back his military time toward a federal retirement if Block 29 is blank, and has told the applicant's employer that Block 29 has to indicate something in the block if there was no time lost.

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

³ *Wielkoszewski v. Harvey*, 398 F.Supp.2d 102, 109 (D.D.C. 2005) ("The Court recognizes that *McFarlane* counsels that the date of discovery should be the actual date, and not the date at which a hypothetical "reasonable person" would have discovered the error or injustice. *McFarlane v. Sec'y of the Air Force*, 867 F.Supp. 405, 412 (E.D.Va.1994). Nevertheless, this does not mean that the actual date of discovery is whenever a plaintiff says it is.").

⁴ 33 C.F.R. § 52.24(b).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

6. The Coast Guard recommended that the Board deny relief because the applicant's DD Form 214 was prepared in accordance with the Coast Guard policy that was in effect in 2020. The Board agrees that the applicant's DD Form 214 was correctly prepared, but strict adherence to the policy is resulting in an unjust outcome for the applicant.⁶

7. Under 10 U.S.C. § 1552, the Board is authorized not only to correct errors but to remove injustices from any Coast Guard military record. For the purposes of the BCMRs, "injustice" is sometimes defined as "treatment by the military authorities that shocks the sense of justice but is not technically illegal."⁷ The Board has authority to determine whether an injustice exists on a "case-by-case basis."⁸ Indeed, "when a correction board fails to correct an injustice clearly presented in the record before it, it is acting in violation of its mandate,"⁹ and "[w]hen a board does not act to redress clear injustice, its decision is arbitrary and capricious."¹⁰

8. The Board finds that in the interest of justice the applicant's DD Form 214 should be corrected by placing the word "NONE" in Block 29. The Board understands this is inconsistent with current Coast Guard policy, but until OPM and the Coast Guard are on the same sheet of music, this correction is the only way to eliminate the injustice created by the Coast Guard's adherence to its policy of leaving Block 29 of the DD Form 214 blank.

[ORDER AND SIGNATURES ON NEXT PAGE]

⁶ The Board has been informally told by the Coast Guard that they will no longer leave Block 29 blank.

⁷ *Reale v. United States*, 208 Ct. Cl. 1010, 1011 (1976); *but see* 41 Op. Att'y Gen. 94 (1952), 1952 WL 2907 (finding that "[t]he words 'error' and 'injustice' as used in this section do not have a limited or technical meaning and, to be made the basis for remedial action, the 'error' or 'injustice' need not have been caused by the service involved.").

⁸ Docket No. 2002-040 (DOT BCMR, Decision of the Deputy General Counsel, Dec. 4, 2002).

⁹ *Roth v. United States*, 378 F.3d 1371, 1381 (Fed. Cir. 2004) (quoting *Yee v. United States*, 206 Ct. Cl. 388, 397 (1975)).

¹⁰ *Boyer v. United States*, 81 Fed. Cl. 188, 194 (2008).

ORDER

The application of former BM2 [REDACTED], USCG, for correction of his military record is granted. The Coast Guard shall prepare and send him a DD 215 correcting Block 29 of his DD Form 214 record to show "NONE."

May 1, 2025

