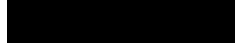


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-125


RDC (retired)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. After receiving a completed application, the Chair docketed the case on July 9, 2024 and assigned it to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated April 10, 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 is a former RDC (E-7) who retired from the Coast Guard in 1992 after serving for twenty years on active duty. He asks the Board to combine his three DD Form 214s¹ and issue him one DD Form 214 covering his entire period of active-duty Coast Guard service from January 15, 1972 to January 31, 1992.

The applicant also claims inaccuracy in his computation of sea service. He argues that the permanent award of the Coast Guard Cutterman insignia indicates he had at least the five years required sea service for that award. However, he also claims that a correction to his DD214s will result in his sea service being “over 9 years total.”

SUMMARY OF THE APPLICANT’S 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 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.

The applicant enlisted in the Coast Guard on January 15, 1972. He served in a continuous period of active-duty service until January 27, 1976. He was then discharged, issued a DD214, and reenlisted effective January 28, 1976. His DD214 for this period of service reflected 2 years, 6 months, and 10 days of sea service.

The applicant then served continuously on active duty until December 14, 1981, when he was again discharged and issued a DD214 that reflected 2 years, 6 months, and 10 days of sea service. He reenlisted again, effective December 15, 1981 and served continuously until his regular retirement on January 31, 1992. His final DD214 reflected 2 years, 10 months, and 21 days of sea service.

The applicant’s sea service is documented in a “Creditable Sea Service Worksheet” dated December 31, 1991. It reflects four periods of sea service during the applicants career:

August 31, 1972 – April 24, 1973	7 months, 24 days
May 1, 1973 – April 25, 1975	1 year, 11 months, 25 days
January 13, 1982 – February 5, 1982	23 days
May 11, 1982 – April 1, 1985	2 years, 10 months, 21 days
TOTAL CREDITABLE SEA DUTY	5 years, 7 months, 3 days

VIEWS OF THE COAST GUARD

On February 10, 2025, a judge advocate (JA) of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant alternate relief, consistent with an attached memorandum prepared by the Personnel Service Center (PSC).

The PSC contended that the application was untimely. In addition, they contended that the Coast Guard acted consistently with its policy at the time to discharge and reenlist members, which resulted in the issuance of three DD214s, and that these three documents collectively give a full accounting of the applicant’s military service and entitlement to wear the Cutterman’s insignia.

The PSC recommends that, as an alternate form of relief, the applicant be provided with copies of his three DD214s and his Statement of Creditable Sea Service.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 13, 2025, the Chair sent the applicant a copy of the Coast Guard’s views and invited him to respond within thirty (30) days. The Chair did not receive a reply.

APPLICABLE LAW AND POLICY

33 C.F.R. § 52.21 provides the general requirements for docketing applications to this Board:

(c) No application shall be docketed or processed until it is complete. An application for relief is complete when all of the following have been received by the Board:

- (1) A signed DD Form 149, providing all necessary responses, including a specific allegation of error or injustice, accompanied by substantial evidence or information in support of such allegation;

33 C.F.R. § 52.22 sets for the time limits for applying for correction of a record with this Board.

An application for correction of a record must be filed within three years after the applicant discovered or reasonably should have discovered the alleged error or injustice. If an application is untimely, the applicant shall set forth reasons in the application why it is in the interest of justice for the Board to consider the application. An untimely application shall be denied unless the Board finds that sufficient evidence has been presented to warrant a finding that it would be in the interest of justice to excuse the failure to file timely.

Chapter 12.B.11 of the initial issuance of the Coast Guard Personnel Manual, COMDTINST M1000.6, May 5, 1982, states that unless a member voluntarily or involuntarily remains beyond the normal enlistment expiration date, a member shall be discharged or released from active duty and transferred to the Reserve to fulfill any remaining service obligation on the day before the applicable enlistment anniversary date. This language remained in effect through subsequent changes to the Personnel Manual through the applicant's retirement date.

COMDTINST 1900.4D, Certificate of Release from Active Duty, DD Form 214, was issued on September 28, 1993. In Chapter 1.B., the Coast Guard changed their policy specifically to make members who are discharged for the purpose of immediate reenlistment ineligible to receive a DD214. Prior to this issuance, members discharged for the purpose of immediate reenlistment would receive a DD214 like other discharged personnel.

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 submissions, 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. The applicant received the original opinion of this board in 1982, yet did not apply to this Board until April 24, 2024. No explanation was given by the applicant for this delay, except that he didn't think of it at the time and lost his DD-214 while he was homeless.

3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so. 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

4. The Board may correct any military record of the Coast Guard when necessary to correct an error or remove an injustice.² Error means either legal or factual error.³ Injustice, when not also error, is treatment by the military authorities that shocks the sense of justice but is not technically illegal.⁴ 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 the record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.⁵ 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.”⁶

5. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.⁷ 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”⁸ 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.”⁹

6. The Board finds that the issuance of three separate DD214s to reflect the totality of the applicant’s active duty service was both factually accurate and consistent with Coast Guard policy at the time of his service. None of the three DD214s in question were issued in error. While it may present an inconvenience to the applicant to have three separate DD214s, it does not constitute an injustice that warrants relief from this Board.

7. The applicant also claims that he should be credited with more than 9 years of sea service. There is no evidence in the applicant’s record to support this claim. The Statement of Creditable Sea Service in his record shows 5 years, 7 months, and 3 days of sea service, which is more than the 5 years required for award of the Cutterman insignia. The Board acknowledges that this is inconsistent with the cumulative sea service reflected on the applicant’s three

² 10 U.S.C. § 1552(a); 33 C.F.R. § 52.2(a).

³ *Sawyer v. United States*, 18 Cl.Ct. 860, 868 (1989), *rev'd on other grounds*, 930 F.2d 1577 (Fed.Cir.1991).

⁴ *Id.*

⁵ 33 C.F.R. § 52.24(b).

⁶ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁷ *Id.*; 33 C.F.R. 52.22.

⁸ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁹ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

DD214s, but none of these documents support his claim that he is entitled to over 9 years of sea service. The record suggests that the 2 years, 6 months, and 10 days reflected on both his 1976 and 1981 DD214s refer to the same period of sea service, since that would make his Statement of Creditable Sea Service wholly consistent with his DD214s. But the Board does not need to speculate further on the reasons for the inconsistency, as the applicant provides no evidence to support a specific allegation of error or injustice related to these records.

8. The Board notes that the applicant has not stated any reasons for his delay, nor does he provide any evidence to support excusal of his untimeliness in the interest of justice. Additionally, upon a cursory review, the Board finds that the applicant's claims are without potential merit based on the evidence before us. The Board agrees with the Coast Guard's suggestion of alternate relief that the applicant should be provided with his DD214s and Statement of Creditable Sea Service. These documents were subsequently provided to the applicant with the advisory opinion in this case. Therefore, further relief is denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

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

April 10, 2025

