DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-148

[redacted]
DT2 (former)

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 August 21, 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 May 8, 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 DT3 (E-4) who was discharged from active duty on June 4, 1979. He claims to have been showing his grandson his DD214, and noticed that his record showed successful completion of the DT2 (E-5) course on December 11, 1978. He claims that this indicates that he was qualified for promotion to DT2, and asks for correction of his DD214 to reflect that rank for "bragging rights." Although he does not explicitly allege that he was actually promoted to DT2 while in service, the Board perceives his claim as an allegation that the DT3 rank reflected on his DD214 is erroneous.

SUMMARY OF THE APPLICANT'S RECORD

The applicant enlisted in the Coast Guard on February 5, 1973. He served in a continuous period of active-duty service until he was discharged on June 4, 1979, a period which includes three separate extensions to his original four-year enlistment contract.

The applicant's record reflects that he attended a number of schools and courses during his service. One "institute course" reflected on his DD214 was "DT2," which he appears to have successfully completed with a 96% on December 11, 1978.

The record does not indicate that the applicant was ever actually promoted to DT2. All documents in his record dated after his 1974 promotion refer to him as a DT3.

VIEWS OF THE COAST GUARD

On March 6, 2025, a judge advocate (JA) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny 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 successful completion of the DT2 course is not tantamount to promotion to DT2. They contend that course completion is a requirement for advancement, but actual advancement authorizations are published and recorded separately.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 14, 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.

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 his DD214 around the time of his discharge from active duty on June 4, 1979. The record shows that it was mailed to him on June 26, 1979, and the copy in the record bears his signature. He did not apply to the Board for relief until April 15, 2021. No explanation was given by the applicant for this delay, except that he "just noticed [it] . . . recently" when showing his grandson his DD214.

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.[1] Error means either legal or factual error.[2] Injustice, when not also error, is treatment by the military authorities that shocks the sense of justice but is not technically illegal.[3] 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.[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 Board first turns to the reasons for the delay in making this claim to the Board for relief. While the Board acknowledges that much of the information on the DD214 may not be understood by a member departing active duty, entries such as name, birthdate, social security number, rank, and other basic information certainly would be. The Board finds it highly unlikely

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[1] 10 U.S.C. § 1552(a); 33 C.F.R. § 52.2(a).

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

[3] *Id.*

[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).

that the applicant read his DD214 when he signed it, but didn't notice that his rank was incorrect. It is much more likely that he simply didn't read it, or didn't believe it to be in error at the time. This Board has certainly corrected erroneous records where fault for the error lies in part with the applicant, and in any case would not penalize a member solely for failing to read something he signed. However, as to the question of why the applicant waited more than 40 years to claim error, failing to carefully read a very simple entry on a one-page form before signing is not strong justification to excuse the applicant's failure to timely apply.

6. The Board next turns to the potential merits of the applicant's claims. The applicant claims that his records should reflect that his rank was DT2 (E-5) at the time of his discharge. His application does not claim that he was actually promoted to that rank, only that he had completed the necessary course of instruction for that promotion. The record consistently refers to him as a DT3 (E-4), and contains no documentation showing that he was actually promoted to DT2. Notably, the applicant's record contains a request that he submitted after his discharge to obtain a copy of his DD214. On that document, he represents his own pay grade to be E-4. Not only does the applicant's record consistently refer to him as a DT3 (E-4) with no evidence of his promotion to DT2 (E-5), it also appears that he believed himself to be a DT3 when he was discharged. As a result, the Board finds that the applicant's claim lacks potential merit.

7. The Board notes that the applicant has not stated any justification 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 claim is without potential merit. Therefore, the Board will not excuse the applicant's untimeliness. His claim is denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of DT3 (former) [redacted] USCG, for correction of his military record is denied.

May 8, 2025

[redacted]