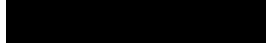


**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2024-186**

  
BM3 (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 May 15, 2024, and this decision of the Board was prepared pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated May 30, 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 BM3 (E-4) who was honorably discharged on October 20, 1978, asked the Board to correct the birthdate on his DD-214. He claims that the birthdate reflected on his DD-214 (referred to hereinafter as "Date 1") is incorrect, and provides a birth certificate and a social security card reflecting a birthdate of Date 2. All other personal information between his Coast Guard records, birth certificate, and social security card are identical.

**SUMMARY OF THE RECORD**

The applicant served on active duty in the Coast Guard from October 21, 1974 to October 20, 1978. His DD-214 indicates his birthdate was Date 1, and that he was honorably discharged.

Numerous documents in the applicant's military record consistently indicate a birthdate of Date 1, including a VA Form 07-3101 Request for Information filled out by hand by the applicant in 1980. No available documents reflected a birthdate of Date 2.

### **VIEWS OF THE COAST GUARD**

On April 9, 2025, 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 the applicant's entire military record consistently reflects a birthdate of Date 1. This includes his enlistment contract, Form CG-4113 Record of Emergency Data, and the and the VA Form 07-3101. The PSC concluded that the preponderance of the evidence indicates that the applicant used a birthdate of Date 1 throughout his time in service, and afterward. The PSC's memorandum does not make a conclusion as to whether Date 1 or Date 2 is the applicant's correct birthdate.

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

The BCMR sent the applicant a copy of the Coast Guard's recommendation and invited him to submit a response, which he provided by email on April 26, 2025.

The applicant explained that his mother passed away when he was very young, and that his father raised him as a single parent. He claims that he was always led to believe that his birthdate was Date 1. He used this birthdate consistently while serving in the Coast Guard, and afterward. He contends that it wasn't until years later – around when he turned 50 – that he received communication from the Social Security Administration listing his birthdate as Date 2. He said that it was only then that he contacted the Office of Vital Records to request a copy of his birth certificate. He claims that he was “shocked to discover that the birthdate listed did not match the birth date [he] had been using for the past 50 years.”

The applicant then described the steps he has taken with his employer, healthcare provider, bank, credit card companies, etc., to update his information. He renews his request to update his birthdate to Date 2 on his DD-214.

### **APPLICABLE LAW AND REGULATIONS**

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 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. The Board may correct any military record of the Coast Guard when necessary to correct an error or remove an injustice.<sup>1</sup> Error means either legal or factual error.<sup>2</sup> Injustice, when not also error, is treatment by the military authorities that shocks the sense of justice but is not technically illegal.<sup>3</sup> 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.<sup>4</sup> 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."<sup>5</sup>

3. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. The applicant presumably received his DD-214 upon his discharge in 1978, yet did not apply to this Board until April 4, 2022.<sup>6</sup> The applicant explains in his response to the advisory opinion that he discovered the error in his birthdate around the time he turned 50 years old, which happened in 2005. Accepting this at face value, that still means the applicant waited for more than 15 years to make application to the Board for relief.

4. 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

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<sup>1</sup> 10 U.S.C. § 1552(a); 33 C.F.R. § 52.2(a).

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

<sup>3</sup> *Id.*

<sup>4</sup> 33 C.F.R. § 52.24(b).

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

<sup>6</sup> There appear to have been several applications submitted by the applicant requesting the same relief, the first of which was signed by the applicant on April 4, 2022.

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>

5. The Board first turns to the reasons for delay. Even considering the applicant’s assertions as true, he waited well beyond three years to make application to this Board for correction. Considering that he also claims to have been correcting a multitude of other records as a result of discovering his erroneous birthdate, the Board doesn’t find his reasons for delay particularly compelling.

6. The Board next turns to the potential merits of the applicant’s claim. It is clear to the Board, based on the record before us, that the applicant is the veteran whose records correspond to his name and social security number, and that his birthdate is in fact Date 2. The birth certificate presented appears to be a copy of the original birth certificate executed at the time of his birth, completed by hand and by typewriter, but issued in April 2008. Beyond the applicant’s own contention that the DD-214, social security card, and birth certificate at issue all belong to him, contemporaneous Coast Guard records show that his father and mother’s names on a CG-4113 Record of Emergency Data from 1978 are the same as those on the birth certificate he provides. As a result, the birthdate reflected as Date 1 on his DD-214 is indeed an error in his Coast Guard records. As the applicant’s claim clearly has potential merit, the Board excuses his failure to timely apply.

7. As we find the applicant’s birthdate is Date 2, the reflection of his birthdate as Date 1 in his Coast Guard records constitutes error. The PSC notes that the applicant consistently represented his birthdate as Date 1 throughout his military service, presumably to argue that he is now not entitled to a correction when he perpetuated the mistake. While that fact may be persuasive to the Board in cases alleging injustice, it is unpersuasive where the record establishes a clear factual error. While applicants bear the burden of providing the substantial evidence to support their claims of error before this Board, we do not require that they do so only with perfectly clean hands. The applicant has met his burden to prove error in his record, and justice demands a correction of this error to provide the applicant an accurate record of his honorable service in the Coast Guard.

8. The Coast Guard will issue the applicant a DD-214 or DD-215, as appropriate, reflecting his birthdate as Date 2.

**[ORDER AND SIGNATURES ON NEXT PAGE]**

**ORDER**

The application of former BM3 [REDACTED], USCG, for correction of his military record is granted. The Coast Guard will issue him a DD-214 or DD-215 reflecting a birthdate of [REDACTED]

May 30, 2025

