

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2024-218


E5 (former)

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552. The Chair docketed the case after receiving the completed application on May 28, 2024, and assigned it to an attorney to prepare the decision for the Board pursuant to 33 C.F.R. § 52.61(c).

This final decision dated June 26, 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 reserve BM2 who served eight (8) years in the Coast Guard as a reservist. He completed thirteen (13) days in a drilling status aboard USCGC FOXGLOVE to fill a BM position. The applicant was originally headed to Active-Duty Training (ADT) to fulfill his reserve guard requirements when his orders changed to active duty, according to the applicant, and served aboard the cutter from October 21, 1962 through November 1, 1962. However, the applicant's DD214 only reflects the training center orders and does not list any active-duty time. The applicant desires to be buried at a National Cemetery and is seeking for the alleged error to be corrected by reflecting this ADT as active duty on his DD214 to enable him the opportunity to be buried at his desired location. The rules for being buried at a National Cemetery require one (1) day minimum of active duty to be eligible for burial, among other non-relevant options. The applicant is requesting a DD214 to include his perceived active-duty time to ensure he can be buried in a National Cemetery.

SUMMARY OF THE RECORD

On September 26, 1958, the applicant enlisted in the ready reserves for the U.S. Coast Guard.

On October 19, 1962, the applicant received modified orders to change from Active-Duty Training (ADT) orders to active duty to backfill a Boatswain's Mate position on USCGC FOXGLOVE. The applicant served on active-duty training aboard the USCGC FOXGLOVE for thirteen (13) days from October 21, 1962, to November 2, 1962.

The applicant's orders on file reflected the Training Center in Yorktown, VA for ADT, though he did not complete this training at Yorktown, VA and instead changed training locations to support a backfill needed aboard USCGC FOXGLOVE.¹ The applicant's time aboard the USCGC FOXGLOVE for active-duty training is reflected on his DD214 as ADT.

On September 16, 1966, the applicant completed his required reserve service and separated from the Coast Guard having served eight (8) years in the Coast Guard reserve.

The applicant desires to be buried in a National Cemetery, but a minimum of one (1) day active duty is required, among other nonrelevant options, to be buried in a National Cemetery. The applicant affirms he served thirteen (13) days of active duty but his DD214 was created in error. The orders for the applicant's ADT were altered to a new location, but the nature of his orders (active duty versus active-duty training) remained the same as his yearly required ADT. Upon completion of the scheduled ADT time, the applicant continued in his reserve status at his assigned drilling unit.

VIEWS OF THE COAST GUARD

On February 27, 2025, a Judge Advocate (JA) for the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum on February 21, 2025, prepared by the Coast Guard Personnel Service Center (PSC).

The JA concurred with the PSC evaluation of the applicant's request. PSC determined there was no error or injustice and the applicant's request should be denied.

The JA argued that the type of orders didn't change, only the location. The JA asserts that the applicant was still completing ADT orders, but instead of training at the Training Center in Yorktown, the applicant worked aboard the USCGC FOXGLOVE in a training capacity. Therefore, the applicant never served active duty and his DD214 is not in error. Additionally, the applicant would have had to complete ADT yearly to maintain a good reserve status. Per Coast Guard policy, a member must serve thirty (30) days to receive a separate DD214 to represent that active duty time.² For these reasons, the JA recommends the Board deny the applicant's request.

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.

On June 11, 2025, the applicant responded to the JA's advisory opinion. No new evidence was submitted. The applicant shared that during the Cuban Missile Crisis, things were done "differently" and not always administratively correct. His goal has always been to be buried in a

¹ See Application for Active Duty for Training form for reserve personnel within the applicant's record. The applicant has the USCGC FOXGLOVE listed as a training location for one of his completed ADT's.

² DoDI 1336.01, Certificate of Uniformed Service (DD Form 214/5 Series) Chapter 3.2, "Reserve Component personnel must be ordered to active duty for a contingency operation for a period greater than 30 days to receive a DD-214."

National cemetery, but now he is learning he is not classified as a veteran by the VA because of his lack of active-duty time. He reasserts that those thirteen (13) days described as ADT should be counted as active duty. According to the applicant, no instructional training was provided while aboard the USCGC FOXGLOVE and therefore should not be viewed as ADT.

APPLICABLE LAW AND POLICY

1. 33 C.F.R. § 52.22. 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.

2. The Doctrine of Laches can be raised as an affirmative defense before the BCMR. In order to prevail on this issue, the government must prove (1) that there was a delay and (2) that such delay prejudiced the government. *Allen v. Card*, 799 F. Supp. 158, 165 (D.D.C. 1992).

3. Reserve Duty Status and Participation COMDTINST 1001.2A

Chapter 2.B., “Title 10 U.S.C. §101, active duty means full-time duty in the active military service of the United States. Such terms include full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a Service school by law or by the Secretary of the military department concerned.”

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant’s 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. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.³ An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.⁴ The Coast Guard is to maintain its presumption of regularity in that it is presumed to have created the applicant’s military record without error or injustice and the burden of proving the Coast Guard made an error or injustice rests on the applicant.⁵ The applicant’s perceived error and injustice, should he not be heard, will overcome the timeliness requirement. Given the technical nature of the allegation of error, it is likely that the applicant was unaware of the significance of the distinction between “active duty” and “active duty for training” until he inquired about his eligibility for burial in a military cemetery. As a result, the Board concurs with the applicant’s claimed date of discover of the error of May 4, 2024 and considers this a timely application.

3. The applicant’s disputed military record is presumptively correct, and the applicant’s application contains no persuasive evidence that substantiates his allegations of error or injustice

³ 10 U.S.C. § 1552(b).

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

⁵ 33 C.F.R. § 52.24 (b).

in his official military record. The applicant's description of the Cuban Missile crisis and the natural urgency in times of tension does not fulfill the requirement of proving he was on active duty during his thirteen days of scheduled ADT. Many ADT assignments occur at units and cutters for hands-on experience. The applicant does not appear to have ever activated in the eight (8) years as a reservist and choose to separate versus pursuing active duty in 1966. Due to the length of time (over 30 years has passed) the loss of additional records to review the details surrounding the discharge have apparently been lost. The records available do not demonstrate inaccuracy. The applicant has not shared evidence that demonstrates the Coast Guard acted in a way against policy to create an error or in a manner unjust to the applicant. The applicant's perception of being on active duty aboard the USCGC FOXGLOVE does not in itself prove that the applicant served thirteen (13) days of active duty. The applicant appears to be a proud patriot and served honorably in a reserve status for U.S. Coast Guard for eight (8) years and then choose to separate. The requirement for burial in a National Cemetery is not something the Coast Guard or this Board controls. Any request for exception would need to be sought through the Department of Veterans Affairs. The issuance of a DD214 to reflect unsubstantiated active-duty time is not appropriate.

4. Accordingly, the Board does not have evidence before it showing the applicant served on active-duty orders. The Board welcomes the applicant to re-apply to the Board if new information is discovered. But without substantial evidence to support his claim of error or injustice, the Coast Guard's maintains their presumption of regularity and the Board should deny relief.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

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

June 26, 2025

