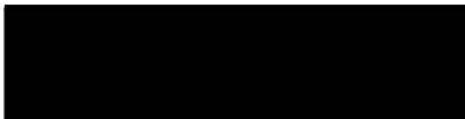


**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2016-181



FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case after receiving the applicant's completed application on July 27, 2016, and assigned it to staff attorney [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated June 16, 2017, 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, who served on active duty in the Coast Guard from [REDACTED] asked the Board to correct his discharge form DD 214¹ dated July 1, 1987, to show that he received the Coast Guard Commendation Medal, and that he was a lieutenant commander at the O-4 paygrade at the time of his discharge. The applicant stated that he discovered the alleged errors on June 1, 2016, but provided no explanation as to the delay in his discovery of the alleged errors.

In support of his application, the applicant submitted several documents, which are summarized below in the Summary of the Record.

SUMMARY OF THE RECORD

The applicant was commissioned an ensign in the Coast Guard on [REDACTED]. He was promoted to lieutenant on [REDACTED]. On July 2, 1987, the applicant received a certificate stating he had been awarded the Coast Guard Commendation Medal for outstanding achievement from August 1983 to June 1987.

The applicant received a DD 214 for his service from [REDACTED]. The medals listed are Coast Guard Meritorious Unit Commendation Ribbon; Coast Guard Sharp-

¹ A DD 214 is prepared to document a member's release or discharge from a period of active duty.

shooter Rifle Medal; Coast Guard Marksman Pistol Ribbon; National Defense Medal; and the Coast Guard Sea Service Ribbon. His rank is listed as lieutenant, and his pay grade is O-3. The reason for discharge is listed as “Resigned.”

The applicant received a letter permanently appointing him to the Coast Guard Reserve as of [REDACTED]. The applicant’s record also contains several Coast Guard Reserve Retirement Points Statements. The first of which covers the dates from [REDACTED].

On August 18, 1988, the applicant’s name was included on a Reserve officer promotion list. On [REDACTED], [REDACTED] as promoted to lieutenant commander.

The applicant [REDACTED] in Application for Armed Forces Identification Card, which states [REDACTED] under Grade or Rank. The application was completed on September 18, 1988.

VIEWS OF THE COAST GUARD

On January 23, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant partial relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC argued that partial relief should be granted despite the fact that his request is untimely.

PSC argued that the applicant is not entitled to have his rank and pay grade changed on his DD 214 because he was discharged from active duty on July 1, 1987, and he was appointed to the grade of [REDACTED] on September 1, 1988. In accordance with the manual for preparing DD 214s, which are Certificates of Release or Discharge From Active Duty, PSC stated that the applicant’s DD 214 was correct as of the date it was created, as his promotion occurred after his active duty separation date.

PSC also stated that the applicant was awarded the Coast Guard Commendation Medal for outstanding achievement for the period from August 1983 to June 1987. PSC argued that this period is covered by the DD 214, but the medal is not included. Therefore, PSC recommended that the Board grant the applicant’s request to have the Coast Guard Commendation Medal included on his DD 214. PSC also recommended denying the applicant’s request to have his rank and pay grade changed, since he has not proven that the DD 214 is erroneous in this respect.

APPLICABLE LAW AND REGULATIONS

Chapter 1.E. of COMDTINST M1900.4D, the manual regulating discharge forms, states that block 4.a. of a DD 214 must include “the abbreviation for the grade or rate in which separated” and block 4.b. must include “the pay grade in which separated.”

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 27, 2017, the Board sent the applicant a copy of the Coast Guard's views and invited him to respond within 30 days. No response was received.

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 concerning this matter pursuant to 10 U.S.C. § 1552.
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 from the Coast Guard in 1987 but did not submit his application to the Board until 2016. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error in his record in 1987, and his application is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.³ 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. Regarding the delay of his application, the applicant stated that he discovered the error on June 1, 2016, but provided no further explanation. The Board finds that the applicant's explanation for his delay is not compelling because he failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly. However, because there is a clear error on the applicant's DD 214, the Board finds that it is in the interest of justice to waive the statute of limitations in this case.
5. The applicant alleged that his DD 214 does not list the Coast Guard Commendation Medal and that his rank and pay grade are incorrect. The Board begins its analysis in every case 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. 33 C.F.R. § 52.24(b). 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.” *Arens v. United*

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

³ 10 U.S.C. § 1552(b).

⁴ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁵ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

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

6. The Board finds that the applicant received the Coast Guard Commendation Medal, but that it was not included on his DD 214. He was awarded a certificate on July 2, 1987, stating [REDACTED] received the award for outstanding achievement from August 1983 to June 1987. The Board therefore finds that the applicant's request [REDACTED] spect.

7. The applicant also requested that his DD 214 be changed to show that he was a lieutenant [REDACTED] he [REDACTED] at the time of his discharge from active duty. The record shows that the applicant was a [REDACTED] at the time he was discharged in 1987, and that he was promoted to [REDACTED] as a member of the Reserve on September 1, 1988. His DD 214 [REDACTED] as of the time it was prepared in accordance with Chapter 1.E. of COMDTINST M1900.4D. This request should therefore be denied.

8. The applicant has proven by a preponderance of the evidence that his DD 214 does not accurately reflect all of the medals he is eligible for. Accordingly, his DD 214 should be corrected to show that he was awarded the Coast Guard Commendation Medal. All other requests should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

[REDACTED]

ORDER

The application of former [REDACTED] [REDACTED] USCGR, for correction of his military record is granted in part. His DD 214 shall be corrected to show that he received the Coast Guard Commendation Medal. All other requests are denied.

