

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

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2023-008


Retired LCDR (O-4)

FINAL DECISION

This is a proceeding under 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 October 11, 2022, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated August 22, 2024, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

SUMMARY OF APPLICANT'S REQUEST AND ALLEGATIONS

The applicant, a retired lieutenant commander, asks the Board to make the following corrections to his record. First, the applicant alleges a CG-3307 Administrative Remarks, lists inaccurate dates and that he retired on March 1, 2020. Second, the applicant asks the Board to add his Coast Guard Commendation Medal to his record. Third, the applicant states he needs command to complete continuation OER CG-5310E dated May 1, 2019 through February 29, 2020 and add it to his record. Finally, the applicant asks the Board to add "Foreign Service" to record May 1, 2014 through February 29, 2020 for service outside state, commonwealth, and/or territory per the Department of Defense (DOD) foreign service definition and issue a DD Form 215. The applicant states that inaccurate information was observed upon accessing his iPERMS¹ records.

SUMMARY OF THE RECORD

The applicant is a former lieutenant commander, who retired as a logistics program manager on March 1, 2020.

¹ The interactive Personnel Electronic Records Management System (iPERMS) is an electronic records management system used for storing and managing military personnel records. It is the official repository for Coast Guard Military Human Resources Records (CGMHRR) of Coast Guard members who separated on or after October 1, 2006.

DD Form 214

On January 1, 2020, the applicant signed his DD Form 214 certifying his retirement.

Commendation Medal

On February 5, 2020, the applicant was awarded a commendation medal for his outstanding achievement from June 2014 to February 2020.

CG-3307

The applicant was issued a CG-3307 upon his retirement. The CG-3307 is dated November 8, 2019 and states the applicant's retirement was effective March 1, 2019.

Continuity OER

On May 30, 2023, the applicant was issued a continuity OER for the period of May 1, 2019 to February 29, 2020.

VIEWS OF THE COAST GUARD

On September 6, 2023, a judge advocate (JAG) submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the case submitted by the Personnel Service Center (PSC) and recommended that the Board grant partial relief.

In his memorandum, the JAG argues that the applicant requests that foreign service time for the period from May 1, 2014 to February 29, 2020 be added to his DD Form 214, but does not provide any substantiation. The JAG concludes that the applicant has not satisfied his burden to prove an error or injustice and thus, no relief should be granted on this issue.

In response to the applicant's claim that the that date of his retirement is erroneous on a CG-3307, the JAG notes that the record indicates the applicant retired on March 1, 2020 and the CG-3307 refers to the year 2019. The JAG concludes that the CG-3307 should be corrected.

In response to the applicant's claim that there is no continuity OER in his record from May 1, 2019 to February 29, 2020, the JAG notes that the Office of Personnel Management has since completed a continuity OER for that period. Thus, the JAG does not recommend additional relief on this issue.

In response to the applicant's allegations that a Coast Guard Commendation Medal is absent from his record, the JAG notes that, while it was previously included in the applicant's Member Information page, the award was not uploaded to his official military personnel file. The JAG concluded that the applicant established that there was an error in his record and thus, the correction is warranted.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

The Chair sent the applicant a copy of the Coast Guard's advisory opinion and invited him to respond within thirty days. The Chair received the applicant's response on September 19, 2023.

The applicant responded to the advisory opinion for the request for “Foreign Service” credit that was recommended to deny relief. The applicant included references of Certificate of Release or Discharge from Active Duty, DD Form 214, COMTINST 1900.4 (series), Certificate of Release of Discharge from Active Duty, DD Form 214, PSCINST 1900.1A, and Certificate of Release of Discharge from Active Duty (DD Form 214/5 Series), Department of Defense Instruction (DODI) 1336.01. The applicant argues that Coast Guard and PSC policy directs the use and to follow the DODI 1336.1 with respect to the DD Form 214. He notes that, specific to the DD Form 214, there is a “Foreign Service” Block. The applicant quotes DODI 1336.01 which defines “Foreign Service” as “[s]ervice performed outside the 50 United States or its commonwealth and territories (American Samoa, Northern Marianas Islands, Guam, Puerto Rico, and U.S. Virgin Islands).” The applicant argues that the constitutional district known as the District of Columbia (DC) is not a state, commonwealth, or territory. According to the applicant, DC is not unique in being not the only land holding that is not a state, commonwealth, or territory. The applicant provides examples of other land holdings of the United States that are not a state, commonwealth, or territory: Midway Atoll, Wake Island, Johnston Atoll, Kingman Reef, Palmyra Atoll, Howland Atoll, Baker Island, Jarvis, and Navassa Island. The applicant argues that for the purposes of the DD Form 214, DC is considered “Foreign Service” as Foreign Service is defined in the negative as DC is not inclusive as a state, commonwealth, or territory.

The applicant requests that the Board grant relief and direct the Coast Guard to follow the Coast Guard and Department of Defense DD Form 214 policy for his service assignment from June 23, 2014 to February 29, 2020 at Coast Guard Headquarters located in the City of Washington, District of Columbia (DC) which was “performed outside the 50 United States or its commonwealths and territories (American Samoa, Northern Mariana Islands, Guam, Puerto Rico, and U.S. Virgin Islands).” The applicant reproduced his member information page with his assignments in DC.

The applicant asks the Board to note that Overseas Service and Foreign Service are two separate definitions and used for different purposes. The applicant is not requesting Overseas Service time (which, according to the applicant, could be used for the Overseas Service Ribbon), but rather only the Coast Guard to comply and follow the policy specific to the DD Form 214.

APPLICABLE LAW AND POLICY

Article 2.t of Enclosure (1) of the Coast Guard Certificate of Release or Discharge from Active Duty, DD Form 214, PSCINST CGPSCINST 1900.1A (July 2017), provides the following guidance on completing the DD Form 214:

Enter the years, months, and days of Foreign Service as defined in reference (a)², from the date entered in Block 12a. through the date entered in Block 12b. If an entry is made in this block, ensure the Foreign Service remark is made in Block 18.

Article G.1 of Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series), DODI 1336.01, defines “Foreign Service” as:

² Reference (a) is Certificate of Release or Discharge from Active Duty (DD form 214/5 Series), DODI 1336.01.

Service performed outside the 50 United States or its commonwealths and territories (American Samoa, Northern Marianas Islands, Guam, Puerto Rico, and U.S. Virgin Islands).

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on 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 application was timely filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).

3. The applicant alleged that there are errors in his military record. 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 military record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.³ 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."⁴

4. The applicant alleges that a Page 7 in his record shows inaccurate dates for his retirement. The Page 7 in question shows his retirement as effective March 1, 2019, while his DD Form 214 shows his retirement as effective 2020. The applicant has shown, by a preponderance of the evidence that the Page 7 is erroneous and relief should be granted.

5. The applicant asks the Board to add his Coast Guard Commendation Medal for his achievement from June 2014 to February 2020 to his record. This medal is not in his Official Military Personnel File (OMPF)⁵; therefore, the applicant has shown, by a preponderance of the evidence, that relief should be granted.

6. The applicant alleges that there is no continuity OER in his record from May 1, 2019 to February 29, 2020. In the time since the applicant applied and the drafting of this decision, a continuity OER for that period has been completed and added to his record. Thus, the Board grants no further relief.

³ 33 C.F.R. § 52.24(b).

⁴ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁵ The OMPF was previously referred to as an Electronically Imaged-Personnel Data Record (EI-PDR).

7. The applicant asks the Board to add his “Foreign Service” to his DD Form 214 for the period from May 1, 2014 to February 29, 2020. During this period, the applicant was stationed in Washington, DC. The applicant asserts that this is “Foreign Service” per the definition in the DODI on how to fill out the DD Form 214. According to the DODI, “Foreign Service” is defined as, “[s]ervice performed outside the 50 United States or its commonwealths and territories (American Samoa, Northern Marianas Islands, Guam, Puerto Rico, and U.S. Virgin Islands.” The applicant argues there are several other U.S. holdings that are not a state, commonwealth, or territory such as the Midway Atoll and Wake Island. However, Washington, DC is different from these other U.S. holdings as it is within the landmass of the 50 United States. Therefore, the applicant has not met his burden and the Board denies relief.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of retired Lieutenant Commander [REDACTED] [REDACTED] USCG, for correction of his military record is denied.

August 22, 2024

[REDACTED] Digitally signed by [REDACTED]
Date: 2024.08.28 10:17:15 -04'00'

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