

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2011-226

**XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX**

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 completed application on August 9, 2011, and assigned it to staff member J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated May 2, 2012, 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 alleged that she is the veteran whose name appears below her current name in the case caption above. She asked the Board to correct the veteran’s DD 214 to show her current name.

The veteran enlisted in the Coast Guard on [REDACTED] and was honorably retired from the Coast Guard due to a physical disability on [REDACTED]. The veteran’s military records show that the veteran was born male and served in the Coast Guard with a male name.¹

The applicant alleged that she is the veteran and that a State court has legally changed her name to the female name shown in the case caption. The applicant submitted a photocopy of a State court order changing her name from the male name in the caption to her female name as of [REDACTED]. The Social Security Number of the veteran is written by hand at the bottom of this document. The applicant made no allegations of error or injustice.

¹ The Board notes that persons’ names are considered “male” or “female” (or both) because of social tradition, not law. This decision labels the names at issue “male” or “female” in accordance with American social tradition.

VIEWS OF THE COAST GUARD

On October 20, 2011, the Judge Advocate General of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the case submitted by Commander, Coast Guard Personnel Service Center (PSC), who recommended that the Board deny relief.

PSC stated that in COMDTINST M1900.4D, the manual for preparing DD 214s, Chapter 1.D.2.a. states that “[a]ll entries [on the DD 214], unless specified otherwise (i.e., block 7a, 7b), are for the current period of active duty only from the date of entry as shown in block 12a through the date of separation as shown in block 12b.” Pursuant to this regulation, PSC stated, the DD 214 was properly prepared with the applicant’s legal name at the time.

PSC stated that the applicant’s “name change became effective after the period of service indicated on the DD-214 [citation omitted]. Therefore there is no error or injustice with regards to the applicant’s name as it appears on the DD-214 or in official military records. Furthermore, it should be noted that records of former service members are filed based upon Social Security Number and the name of the veteran at the time of discharge.” PSC recommended that the Board deny relief because the applicant “has failed to substantiate any error or injustice with regards to [her] record.”

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 24, 2011, the Chair sent the applicant a copy of the views of the Coast Guard and invited her to respond within thirty days. The Board received no response.

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 pursuant to 10 U.S.C. § 1552. The application was timely under 10 U.S.C. § 1552(b) because it was filed within three years of the date the applicant completed, and hence discovered, her legal name change.

2. The applicant alleged that she is the veteran whose male name is shown in the case caption above and that her military records should be corrected because they do not reflect her new name. The Board begins its analysis in every case by presuming that the disputed information in the veteran’s military record is correct, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.²

² 33 C.F.R. § 52.24(b); *see* Docket No. 2000-194, at 35-40 (DOT BCMR, Apr. 25, 2002, approved by the Deputy General Counsel, May 29, 2002) (rejecting the “clear and convincing” evidence standard recommended by the Coast Guard and adopting the “preponderance of the evidence” standard for all cases prior to the promulgation of the latter standard in 2003 in 33 C.F.R. § 52.24(b)).

Absent evidence to the contrary, the Board presumes that Coast Guard officials have carried out their duties “correctly, lawfully, and in good faith.”³

3. The applicant submitted no official document proving that her Social Security Number is the same as that of the veteran. Therefore, she has not proved by a preponderance of the evidence that she is the same person as the veteran. The applicant submitted a copy of the court order that legally changed her name from that of the veteran to her current name, but many people have the same name, so the court order does not prove that she is the veteran.

4. Even assuming *arguendo* that the applicant is the veteran, she has not proved by a preponderance of the evidence that her military records contain any error or injustice or that she is being denied any veterans’ benefits to which she is entitled. The records show that the veteran entered, served in, and was retired from the Coast Guard with the male name shown in the case caption. A DD 214 is a record of a single period of enlistment, like a snapshot, and it is supposed to reflect the facts of that enlistment and to be accurate as of the date of discharge.⁴ COMDTINST M1900.4D, the manual for completing DD 214s, contains no provisions for updating DD 214s when veterans’ personal data change after their separation from the Service. For example, the Coast Guard does not correct or issue new DD 214s when members or veterans later change their names due to marriage; change their home address; or earn new awards.

5. Accordingly, the Board finds that the applicant’s request for correction should be denied.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

³ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁴ UNITED STATES COAST GUARD, COMDTINST M1900.4D, Chap. 1.D.2.a.

ORDER

The application for correction of the military record of former xxxxxxxxxxxxxxxxxxxxxxxx, USCG (Retired), is denied.

