

**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. 2008-170**

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XXXXXXXXXXXXXXXXXXXXX

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**FINAL DECISION**

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case on July 25, 2008, upon receipt of the applicant's completed application, and assigned it to staff member [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated April 16, 2009, 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 asked the Board to correct her record to show that the year of active service she performed from January 29, 1965, to January 28, 1966, was a year of active duty (AD) as opposed to a year of active duty for training (ADT). The applicant alleged that she was led to believe that her year of active service made her eligible for medical benefits from the Department of Veterans' Affairs (DVA). Therefore, she thought that when her husband retired and she lost his health care coverage, she could turn to the DVA. However, she alleged, the DVA has turned her down because of a handwritten phrase in block 11.a. of her discharge form, DD 214.

Block 11.a. on a DD 214 is supposed to show the "Type of Transfer or Discharge." Block 11.a. on the copy of the DD 214 submitted by the applicant bears the typewritten phrase, "Released from active military service." However, the words "military service" have been struck out, and the words "duty tra[ining]" have been added by hand so that block 11.a. appears to state "Released from active duty tra[ining]."

The applicant alleged that she spent her year of active service working at the mail desk at the [REDACTED] and in the payroll office when members came for their pay. She stated, "I knew what to do [and] did it. It was not training [and] I was not supervised at all." The applicant stated that the handwritten notation of training in block 11.a. of her DD 214 is preventing her from being eligible for DVA medical benefits, and she asked the Board to

remove the word “training” from that block. She alleged that she discovered the error in January 2008.

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

On December 17, 2008, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief in this case.

The JAG noted that the application was not timely filed and that the applicant provided no explanation for her 42-year delay in seeking the requested correction. He argued that the application should be denied for untimeliness. He further stated that the applicant enlisted in the Reserve in the women’s “SPAR 12 x 3 program,” which required a three-year total Reserve obligation, starting with 12 months of ADT. He argued that she had submitted insufficient evidence to support her allegations.

The JAG also adopted the findings and analysis provided in a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC). CGPC stated that the applicant enlisted in the Reserve on January 26, 1965, for a term of three years “with an initial term of 12 months ACDU/ACDUTRA,” as shown in block 11 of her enlistment contract. CGPC stated that the applicant was ordered to begin 12 months of ADT on January 29, 1965, and assigned to “Reserve Category and Pay Group JF.” On January 26, 1966, the applicant was issued orders stating that she had completed her year of ADT and would be released from active duty on January 28, 1966. She was released from active military service on January 28, 1966, and discharged from the Reserve on January 25, 1968.

CGPC noted that the applicant failed to submit any evidence that she is being denied DVA entitlements, as she asserted. CGPC further stated that her claim that her year of active service was AD, as opposed to ADT is without merit. However, CGPC noted that the copy of the DD 214 submitted by the applicant is not the same as the DD 214 in her official military record, which does not include any handwriting in block 11.a. Therefore, CGPC stated, the applicant should be provided a copy of the DD 214 in her military record. (A photocopy of the original DD 214, with no handwritten corrections, was enclosed with the Coast Guard’s advisory opinion and so was forwarded to the applicant with the views of the Coast Guard.)

In support of these allegations, CGPC submitted copies of the following documents from the applicant’s official military record:

- Her enlistment contract, dated January 26, 1965, shows that she enlisted in the Reserve for three years with an “initial term of ACDU/ACDUTRA” of 12 months.
- Her Reserve Training Agreement, dated January 26, 1965, shows that she requested the “SPAR 12 x 3 Program.”
- A Page 7 (form CG-3307) entry dated January 26, 1965, shows that she enlisted in the Reserve and would be assigned to a Reserve unit in [REDACTED], “upon completion of ACDUTRA.” Another entry on the same Page 7 shows that the applicant acknowl-

edged by signature that she would “not become entitled to basic allowances for quarters for dependents while on active duty for training unless quarters in kind for myself are not furnished.”

- “Initial Active Duty for Training Orders,” issued on January 22, 1965, shows that the applicant was to report to a U.S. Naval Training Center in [REDACTED] on January 29, 1965, and that she would begin storekeeper “A” School in [REDACTED], on April 23, 1965.
- A second Page 7 shows that on January 29, 1965, the applicant was “[o]rdered to TWELVE months Active Duty for Training. Assigned Reserve Category and Pay Group JF.” In addition, the Page 7 shows that she reported for training in [REDACTED] on January 29, 1965, and that she departed the training center for storekeeper training in [REDACTED], on April 9, 1965.
- An endorsement on travel orders dated January 26, 1966, states that the applicant had completed her “Active Duty for Training Orders” and was directed to report to the [REDACTED] release from active duty.
- A third Page 7, dated January 28, 1966, states that the applicant had completed exactly one year of ADT and was released to inactive duty to complete the remainder of her three-year obligation.
- Her DD 214 shows that she was “[r]eleased from active military service” on January 28, 1966, and that her “Source of Entry” on January 29, 1965, was not an enlistment or reenlistment but the fact that she was “[o]rdered for 12 mon. ACDUTRA.” The DD 214 is signed by the applicant.

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

On December 22, 2008, the Chair sent the applicant a copy of the views of the Coast Guard and invited her 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 submissions, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The applicant has exhausted her administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available procedure provided by the Coast Guard for correcting the alleged error or injustice.
2. An application to the Board must be filed within three years after the applicant discovers, or reasonably should have discovered, the alleged error in her record. 10 U.S.C.

§ 1552; 33 C.F.R. § 52.22. The applicant is seeking correction of her DD 214. She was discharged on January 28, 1966, and knew or should have known the contents of her DD 214 when she signed it. Therefore, her application is untimely.

3. Pursuant to 10 U.S.C. § 1552(b), 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, 164 (D.D.C. 1992), the court stated that to determine whether the interest of justice supports a waiver of the statute of limitations, the Board “should analyze both the reasons for the delay and the potential merits of the claim based on a cursory review.” The court further instructed 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.” *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

4. Regarding the delay of her application, the applicant stated that she did not realize that the handwritten notation in block 11.a. of her DD 214 would cause her to be denied veterans’ benefits until January 2008.

5. A cursory review of the merits of this case shows that it lacks potential merit. Although the photocopy of the DD 214 submitted by the applicant bears a handwritten notation in block 11.a., the DD 214 in the applicant’s official military record bears no such notation and correctly indicates that she was “[r]eleased from active military service” on January 28, 1966. Although the applicant alleged that her year of active military service was AD instead of ADT, her military records—from her Reserve enlistment contract, to her orders, to her discharge papers—show that her year of active service was a year (12 months) of ADT (sometimes denoted as ACDUTRA). These documents are presumptively correct under 33 C.F.R. § 52.24(b). The Board has sent the applicant a copy of her original, unaltered DD 214, as recommended by CGPC. Her claim that she served on AD, rather than ADT, from January 29, 1965, to January 28, 1966, cannot prevail on the merits.

6. Accordingly, the Board will not excuse the application’s untimeliness or waive the statute of limitations. The applicant’s request should be denied.

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

**ORDER**

The application of former xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of her military record is denied.

