

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-100



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 April 3, 2014, 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 December 5, 2014, 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 in the Coast Guard Reserve and was discharged on January 17, 1996, alleged that she never received a DD 214¹ or DD 256² and asked the Board to correct her record by issuing her a DD 214 or DD 256 reflecting her service in the Reserve from January 18, 1988, to January 17, 1995. She also alleged that she did not receive a CG-4175³ for her service from January 18, 1991, to January 17, 1992, and from January 18, 1994, to January 17, 1995.

In support of her application, the applicant submitted a copy of a Page 7⁴ dated July 5, 1991, which shows that she completed a two-week U.S. Coast Guard ADT crewman 41' course. She also submitted copies of her January 18, 1988, eight-year Reserve enlistment contract; reserve retirement points statements covering the period from January 18, 1988, through January

¹ The DD 214 is issued to members who change their military status among active duty, reserve, or retired components or are separated/discharged from the Coast Guard to a civilian status. Chapter 1.A. of COMDTINST M1900.4D. Reservists released from continuous active duty for training (ADT) less than 90 days are not eligible to receive a DD 214. Chapter 1.B.10.

² A DD Form 256 is issued to members of the Reserve to certify honorable service.

³ A CG-4175 is a retirement points statement.

⁴ A CG-3307 (Administrative Remarks, or page 7) entry documents any counseling that is provided to a service member as well as any other noteworthy events that occur during that member's military career. Unless otherwise indicated, all page 7 entries in this case were acknowledged by the applicant with his signature.

17, 1994; and a letter from the National Personnel Records Center (NPRC) to the applicant stating that she did not receive a DD 214 for her time in the Reserve because she had no active service and did not have at least 90 consecutive days of active duty for training.

The applicant stated that she discovered the error on February 3, 2013, and that the Board should waive the statute of limitations in this case because “[a]ny veteran should have the appropriate discharge papers showing his/her service to their country. That is a small thing to ask when be willing [sic] to volunteer years of your life.”

SUMMARY OF THE RECORD

While the applicant was still in school, she enlisted in the Coast Guard Reserve for eight years on January 18, 1988, under the “RK” program. She signed a Statement of Understanding agreeing that she would complete Phase I, recruit training, of her initial active duty for training (IADT) during her first summer break and Phase II, “A” School, during her next break to earn a rating. The Statement of Understanding provides that if she was unable or unwilling to attend “A” School, she would be expected to earn a rating through on-the-job training while drilling and performing annual training as a reservist.

The applicant completed Phase I of IADT (recruit training) from June 6 to July 29, 1988. Thereafter, she performed regular drills and annual training, but she never returned to active duty to attend “A” School. Instead, in 1989, she completed correspondence courses and on-the-job training to earn the port securityman rating and advance to PS3 on January 1, 1990. Her eight-year military service obligation (MSO) ended on January 17, 1996.

VIEWS OF THE COAST GUARD

On August 4, 2014, 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 the applicant is not eligible to receive a DD 214 for her service in the Reserve because Chapter 1.B.10. of COMDTINST M1900.4D, the current manual for preparing DD 214s, states that DD 214s are not authorized for periods of continuous active duty for training for less than 90 days. PSC noted that according to the applicant’s retirement points statements she did not perform any continuous active periods of 90 days or more, and the letter from the NPRC confirms this.

Although PSC argued that the applicant is not eligible to receive a DD 214, it stated that the applicant’s record does contain some errors that should be corrected. PSC stated that reserve retirement points statements for 1992 to 1993, 1994 to 1995, and 1995 to 1996 should be issued to the applicant, and stated that a DD 256 has already been prepared and mailed to the applicant.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 14, 2014, the BCMR sent the applicant a copy of the Coast Guard’s views and invited her to respond within 30 days. The Board did not receive a response.

APPLICABLE REGULATIONS

Chapter 1.A.1.b.(2)(b) of COMDTINST M1900.4B, which was in effect in 1988 and 1989, states that reservists in the RK program receive a DD 214 upon release from active duty for Phase II of IADT “regardless of its length.” Chapter 1.A.1.d. states that DD 214s will *not* be issued to reservists who are released from active duty from Phase I of IADT in the RK program. This chapter also states that DD 214s will *not* be issued to reservists who “are released from active duty for training of less than 90 days unless released from the second phase of the USCGR-RK program or separated for physical disability.”

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.⁵ The applicant was discharged from the Coast Guard Reserve in 1996 but did not submit her application to the Board until February 10, 2014. The preponderance of the evidence shows that the applicant knew that she had not received a DD 214 documenting her active duty before her discharge from the Reserve in 1996, and so her application is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.⁶ 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”⁷ 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.”⁸
4. The applicant argued that the Board should waive the statute of limitations in this case because veterans should receive appropriate discharge papers and that it is a small thing to ask for someone who has volunteered years of their life to the Coast Guard. Although she delayed filing her application, the JAG identified prejudicial errors in her record, as explained below, and so the Board finds that it is in the interest of justice to excuse the untimeliness of the application.
5. The applicant alleged that she should have received a DD 214 for her service in the Coast Guard Reserve. 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

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

⁶ 10 U.S.C. § 1552(b).

⁷ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁸ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

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

6. The applicant is not eligible to receive a DD 214 for her service in the Coast Guard Reserve. DD 214s document extended periods of active duty and are authorized upon a reservist’s release from active duty under certain circumstances. Under Chapter 1.A.1. of COMDTINST M1900.4B, a reservist must have been serving on active duty for more than 90 consecutive days or must have completed Phase II of IADT under the RK program to be entitled to a DD 214. The record shows that the applicant completed recruit training—Phase I of IADT for the reservists in the RK program—in 1988 but did not return to active duty to attend “A” School in 1989 and so never completed Phase II of her IADT. Therefore, in accordance with the provisions of Chapter 1.A.1. of COMDTINST M1900.4B, the applicant was not authorized to receive a DD 214. The Board notes that today, under the rules for DD 214s in COMDTINST M1900.4D, reservists released from periods of active duty less than 90 days are not normally eligible to receive a DD 214. Therefore, the Board finds that the lack of a DD 214 in the applicant’s record does not constitute an error or injustice.

7. The JAG recommended granting partial relief because significant documents are missing from the applicant’s record. The JAG noted that the applicant never received a DD Form 256, honorable discharge certificate, or CG-1475s documenting her service in her anniversary years ending on January 17 of 1993, 1995, and 1996. The JAG stated that PSC has already mailed a DD Form 256 to the address listed on the applicant’s application to the Board, but PSC has apparently not issued the CG-1475s and recommended that the Board grant this relief. Because CG-1475s—retirement points statements—are required to document a reservist’s inactive duty and annual training periods, the Board agrees with the Coast Guard that the missing CG-1475s should be prepared and entered in the applicant’s record.

8. Accordingly, the applicant’s request for a DD 214 should be denied, but the Board finds that her record should be corrected by issuing CG-1475s for her anniversary years ending on January 17 of 1993, 1995, and 1996.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former [REDACTED], USCGR, for correction of her military record is granted in part as follows: The Coast Guard shall issue her retirement point statements (CG-1475s) for her anniversary years ending on January 17 of 1993, 1995, and 1996. All other requests are denied.

December 5, 2014

