

**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. 2015-076**



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**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 March 31, 2015, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated February 5, 2016, 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 his record by adding a discharge form DD 214 to document his honorable discharge from the Coast Guard Reserve. He stated that he needs a DD 214 showing his honorable discharge to be able to enlist in the Navy. The applicant alleged that he discovered this error in his record in March 2015 when his Navy recruiter asked him for his DD 214 reflecting his honorable discharge.

**SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard Reserve on June 19, 2007. He had no prior military service and enlisted under the RK program, which required him to complete Initial Active Duty for Training, consisting of eight weeks of basic training followed by Yeoman "A" School, and then to serve in the Selected Reserve (SELRES) for six years. After completing recruit training on August 10, 2007, he was released from active duty and assigned to a billet to drill regularly in the SELRES. He had served 1 month, 22 days on active duty, and there is no DD 214 in his record documenting this period of active duty.

Upon his release to inactive duty, the applicant completed drills in late August and mid September 2007 but then never again reported for inactive or active duty. His record reflects "unexcused" drills every month from October 2007 through July 2008. On August 29, 2008, the Coast Guard Reserve issued him a general discharge for misconduct with an RE-4 reentry code,

meaning that he is not eligible to reenlist.

### **APPLICABLE LAW AND REGULATIONS**

Department of Defense Instruction (DoDI) 1336.01 was issued on January 6, 1989, and established and implemented policy for the preparation and distribution of the DD 214. Paragraph 2.d. of Enclosure 3 to the instruction states the following:

Personnel being separated from a period of active duty for training, full-time training duty, or active duty for special work will be furnished a DD Form 214 when they have served 90 days or more, or when required by the Secretary of the Military Department concerned for shorter periods. Personnel shall be furnished a DD Form 214 upon separation for cause or for physical disability regardless of the length of time served on active duty.

Chapter 1.B.10. of COMDTINST M1900.4D, the Coast Guard instruction for DD 214s, states that a DD 214 will not be issued to members “[w]ho are reservists released from continuous active duty for training (ADT) less than 90 days.”

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

On October 13, 2015, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief.

The JAG stated that the application was not timely filed and so “should not be considered by the Board beyond a cursory review.” Furthermore, the JAG stated that under applicable regulations, a reservist does not receive a DD 214 to document active duty training unless he or she has served for at least 90 continuous days on active duty. Therefore, the JAG concluded that the applicant was ineligible for a DD 214 because he served less than 90 days on active duty, and his request should be denied.

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

On October 14, 2015, the Chair sent the applicant a copy of the Coast Guard’s views and invited him to respond in writing 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.<sup>1</sup> The applicant stated that he discovered the alleged error

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<sup>1</sup> 10 U.S.C. § 1552(b); 33 C.F.R. § 52.22.

in his record—the lack of a DD 214—in March 2015 when his Navy recruiter asked him for one. Although the JAG argued that his application is not timely because he was discharged in 2008, because the applicant’s service was very short, it is not clear to the Board how he might have learned about DD 214s and known that his record was (allegedly) incomplete without one until the Navy recruiter told him so. Therefore, the Board finds that the preponderance of the evidence shows that the applicant discovered the alleged error in his record in 2015, and his application is timely.

3. The Board notes that the applicant alleged that he had received an honorable discharge, which is erroneous because he received a general discharge for misconduct from the Reserve. If the applicant intends to contest his general discharge, however, he must first apply to the Coast Guard’s Discharge Review Board, which has a 15-year statute of limitations, by submitting application form DD 293 to that board.

4. The applicant alleged that the lack of a DD 214 in his record is erroneous and unjust. 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 his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.<sup>2</sup> 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.”<sup>3</sup>

5. The record shows that the applicant is not entitled to a DD 214 because he did not serve more than 90 days on continuous active duty training, as required by COMDTINST M1900.4D. He completed recruit training, which lasted 52 days, performed a few drills, and was discharged about a year later for misconduct because he had stopped reporting for duty. Therefore, the Board finds that the lack of a DD 214 in his record is not erroneous or unjust, and his request should be denied.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

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<sup>2</sup> 33 C.F.R. § 52.24(b).

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

**ORDER**

The application of former SA [REDACTED], USCGR, for correction of his military record is denied.

February 5, 2016

