

**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. 2016-157**



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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 June 13, 2016, and assigned it to staff attorney [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated May 5, 2017, 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 separated on April 14, 1993, with an honorable discharge, alleged that his DD 214<sup>1</sup> does not cover his six years of service and asked the Board to correct his record by issuing him a DD 214 reflecting his service in the Reserve and to correct his Statement of Retirement Points.

Although the applicant was separated from the Coast Guard in 1993, he did not submit his application to the Board earlier because, he stated, that he did not discover the alleged error until April 14, 2016, and he then submitted his application on May 25, 2016. He stated that when he bought a house ten years ago, he was able to receive veteran's benefits, which requires six years of service. He recently sold his house, and is attempting to purchase another one, but he was told by the Department of Veteran's Affairs (VA) that he did not have enough creditable service to receive this benefit.

In support of his application, the applicant provided several documents which are included below in the Summary of the Record. He also provided a certificate stating that he

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<sup>1</sup> 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 a period of continuous active duty for training (ADT) of less than 90 days are not normally eligible to receive a DD 214.

satisfactorily completed recruit training on July 17, 1981. He provided a certificate stating that he was honorably discharged from the Coast Guard Reserve on April 14, 1987. The applicant also provided a letter from the VA dated June 8, 2016, which states that the applicant was not eligible for the VA Home Loan benefit because he “did not serve the minimum time required for this benefit.” The letter states “Your service records show you served in the Coast Guard Reserve from 04151981 to 04141993 with 4 creditable years of service. A minimum of 6 creditable years or 90 days active duty under Title 10 orders is required during this era in order to be eligible for this benefit.”

### **SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard Reserve on April 15, 1981, for a period of six years. The applicant was ordered to Initial Active Duty Training (I-ADT) on May 22, 1983, which was to include two phases, recruit training and “A” School. The applicant completed the second phase of I-ADT on July 29, 1983. He received a DD 214 upon completing the I-ADT from May 22, 1983, to July 29, 1983, a period of two months and 8 days. The applicant reenlisted in the Coast Guard Reserve on April 15, 1987, for a period of six years. He was separated from the Coast Guard Reserve on April 14, 1993, and received an honorable discharge. He did not complete any additional periods of Active Duty Training (ADT) of 90 days or greater prior to his discharge.

A computation of retirement point credits shows that the applicant received Membership credit for every year from April 15, 1981, through April 14, 1993. He received 53 active duty points in his first year (recruit training), 13 in his second, and 69 in his third year (“A” School). He did not receive active duty points for annual reserve training in any other year. The form states that the applicant has 4 years of qualifying service. The computation shows that he received qualifying years of service by earning at least 50 points in his anniversary years ending on April 14 in 1982, 1983, 1984, and 1987, but none thereafter. The form was prepared on May 25, 2016.

### **APPLICABLE LAW AND REGULATIONS**

Department of Defense Instruction 1336.01 was issued on August 20, 2009, and Paragraph 2.d. states that 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.

Chapter 1.A.1.b.(1) of the Coast Guard Military Separations Manual, COMDTINST M1900.4C, states that reservists released from ADT less than 90 days are not eligible to receive a DD 214. Chapter 1.A.1.b.(2) states that a DD 214 will be issued for a period of ADT of less than 90 days for USCGR-RK trainees upon release from the second phase of I-ADT, regardless of its length.

### VIEWS OF THE COAST GUARD

On November 17, 2016, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief in accordance with a memorandum submitted by the Commander, Personnel Service Center (PSC). PSC argued that the application is untimely and should not be considered by the Board beyond a cursory review. Notwithstanding the untimeliness, PSC argued that the applicant is not eligible to receive a DD 214 for his service in the Reserve because the Department of Defense Instruction (DoDI) 1336.01 states that DD 214s are issued to active duty Service members, and reservists are not active duty Service members. Moreover, PSC argued, paragraph 2.d. to the DoD instruction specifically states that 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.” According to COMDTINST M1900.4C, a DD 214 will not be issued to members who are released from active duty training of less than 90 days unless they are released from the second phase of the USCG-RK program. PSC noted that the applicant was not an active duty member nor was he discharged from a period of active duty for training, full-time training duty, or active duty for special work having served 90 days or more after the period for which he received a DD 214 in 1983 for USCG-RK training. Therefore, PSC argued that the applicant is not eligible for a second DD 214 and has not met his burden or showing that there is an error or injustice in his record.

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

On November 22, 2016, the Board sent the applicant a copy of the Coast Guard’s views and invited him 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 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>2</sup> The applicant was discharged from the Coast Guard Reserve in 1993 without a DD 214 but did not submit his application to the Board until May 25, 2016. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error in his record—the lack of a second DD 214—in 1993 and his application is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.<sup>3</sup> 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”<sup>4</sup> to determine whether

<sup>2</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

<sup>3</sup> 10 U.S.C. § 1552(b).

<sup>4</sup> *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

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.”<sup>5</sup>

4. Regarding the delay of his application, the applicant stated that he did not think he needed a corrected DD 214 until April 14, 2016, when the VA informed him that he needed proof of six years of creditable service. The Board finds that the applicant knew or should have known in 1993 that there was no DD 214 other than the one from 1983 when he completed RK training in his record and he failed to show that anything prevented him from seeking correction of the alleged error or injustice more promptly.

5. A cursory review of the merits of this case indicates that the applicant’s request for a DD 214 lacks merit because he is not eligible to receive a DD 214 for his service in the Coast Guard Reserve. He correctly received a DD 214 for his service upon completing RK training, per the Coast Guard Military Separations Manual, in 1983. However, he is not eligible to receive a DD 214, Certificate of Release or Discharge from Active Duty, to document his discharge in 1993 because he was discharged from inactive duty in 1993, rather than active duty. Under Paragraph 2.d. of DoDI 1336.01 and Chapter 1.B.10. of COMDTINST M1900.4D, reservists are entitled to DD 214s when they are released or discharged from a period of ADT of at least 90 days, and the record shows that the applicant did not perform any continuous active duty for training of at least 90 days after 1983.

6. Accordingly, the Board will not excuse the application’s untimeliness or waive the statute of limitations. The applicant’s request for a DD 214 should be denied.

7. The record shows, however, that the applicant served in the Coast Guard Reserve from April 15, 1981, to April 14, 1993. The Board finds that he is entitled to documentation of his military service. Accordingly, the Coast Guard should prepare a Verification Letter of Service for the applicant to document his military service.

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

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<sup>5</sup> *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

**ORDER**

The application of former [REDACTED] USCGR, for correction of his military record is denied, but alternative relief is granted: The Coast Guard shall prepare a Verification Letter of Service which captures his time serving in the Coast Guard Reserve.

May 5, 2017

