

**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. 2016-215**



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**FINAL DECISION**

This is a proceeding under the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case after receiving the applicant's completed application on August 23, 2016, and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 29, 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, a retired senior chief of the Coast Guard Reserve, asked the Board to correct his record by adding a discharge form DD 214 to document his initial period of active duty for recruit training from June 30 to August 22, 1980. The applicant explained that he needs this documentation of his DD 214 because on May 31, 2016, the Governor of New York signed the Veteran Equality Act, which allows State civil servants to "buy back" up to three years of active duty time.

The applicant alleged that he enlisted in the Reserve on February 1, 1980, under the RK program,<sup>1</sup> attended recruit training in the summer of 1980, and attended ██████ "A" school to earn the ██████ rating in the summer of 1981. The applicant stated that he received a DD 214 upon graduating from ██████ "A" School in 1981 but did not receive one upon graduating from recruit training (boot camp) in 1980. Because of the new law that allows him to "buy back" his time on active duty, he stated, he needs his active duty for recruit training in 1980 to be documented on a DD 214.

The applicant alleged that he discovered the error in his record in 2016, when he learned about the new State law. He explained, "Before May 31, 2016, the DD 214 for the 1980 Recruit

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<sup>1</sup> Chapter 5-E-2 of the Reserve Administration and Training Manual (RATMAN) then in effect provides that initial active duty for training (IADT) for members in the RK program consists of two phases: The first phase is recruit training, and the second phase is "A" School. Upon completion of "A" School, reservists are released to drill at their assigned Reserve units.

Training was never a concern to me due to the fact I did not have the option of buying back my military time.”

### APPLICABLE POLICY

When the applicant enlisted in the Reserve in 1980, COMDTINST M1900.4B, the manual of instructions for preparing DD 214s issued in 1979, was still in effect. Chapter 1.A.1.b. of the manual states that reservists being released from active duty training are eligible for a DD 214 if they [REDACTED] are being separated from a period of active duty of at least 90 days or (2) are trainees in the RK program and are being released from their second phase of initial active duty training (IADT), regardless of its length. IADT normally consists of two phases: recruit training and “A” School. [REDACTED]

### SUMMARY OF THE RECORD

The applicant’s record shows that he enlisted in the Reserve under the RK program on February 1, 1980. He attended recruit training from June 30 to August 22, 1980, which is 1 month and 28 days of active duty training. He attended [REDACTED] “A” School from June 14 to August 21, 1981, which is 2 months and 8 days of active duty training. Thereafter, the applicant drilled regularly in the Selected Reserve and performed annual active duty training. On February 18, 2000, the Personnel Command notified him in a letter that he had qualified for a Reserve retirement upon attaining age 60 because he had completed 20 years of satisfactory service for Reserve retirement purposes.

The applicant’s record contains a DD 214 dated August 21, 1981, which shows in Block 12c that he had just completed 2 months and 8 days of “Net Active Service This Period” while attending [REDACTED] “A” School. The DD 214 also shows in Block 12d that he had previously completed 1 month and 28 days of “Total Prior Active Service” in 1980 at the recruit training camp.

### VIEWS OF THE COAST GUARD

On March 31, 2017, the Judge Advocate General (JAG) of the Coast Guard recommended that the Board deny relief in this case. The JAG stated that no relief is warranted because the applicant’s record already includes a DD 214 dated August 21, 1981, which properly documents both his active duty to attend recruit training in 1980 and his active duty to attend [REDACTED] “A” School in 1981. Moreover, the JAG argued, the applicant is not entitled to the another DD 214 because he never completed a continuous period of active duty of more than 90 days.

The JAG noted, however, that in response to the applicant’s request, the Personnel Service Center (PSC) had recently prepared a new DD 214 for the applicant, which documents just his active duty at the recruit training camp in 1980. The JAG stated that this new DD 214 was prepared in error because the applicant’s recruit training in the summer of 1980 was already properly reflected on the DD 214 issued to him upon his graduation from [REDACTED] “A” school in the summer of 1981. The JAG argued that the preparation of the unnecessary DD 214 is harmless error and that it should not be entered in the applicant’s record because it was unauthorized.

The JAG concluded that the applicant had not met his burden of proof and recommended that the Board deny relief so that the new, erroneous DD 214 prepared by PSC will not be entered in the applicant's record.

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

On March 31, 2017, the Chair sent the applicant a copy of the views of the Coast Guard and invited him to respond within thirty 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.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice in his record.<sup>2</sup> The applicant stated that he discovered the alleged error in this case—the lack of a 1980 DD 214—in 2016, when he learned about a new law. However, the alleged error is the applicant's record is the lack of a 1980 DD 214, and the preponderance of the evidence shows that he knew he had not received one in 1980 or, at the latest, in 1981 when he received his other DD 214 upon finishing "A" School. Therefore, the Board finds that 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 this case, the record shows that PSC prepared a new DD 214 in response to the applicant's request, but PSC has not yet entered the new DD 214 in the applicant's official record. The JAG has argued that the applicant's record is already correct, because his original DD 214 documents both phases of his IADT, and that the new DD 214 was erroneously prepared and should not be entered in his record. Accordingly, to determine whether PSC should enter the newly prepared DD 214 in the applicant's record, the Board will excuse the untimeliness of the application and consider the case on the merits.
4. When considering the merit of an allegation of error or 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>4</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>5</sup>

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<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> 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)).

<sup>5</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).

5. The Board finds that under applicable policy, the applicant was not entitled to a DD 214 upon his release from recruit training in 1980. Chapter 1.A.1.b. of COMDTINST M1900.4B, the manual of instructions for preparing DD 214s in effect in 1980, provides that reservists being released from active duty training are eligible for a DD 214 if they (1) are being separated from a continuous period of active duty of at least 90 days, or (2) are trainees in the RK program and are being released from their second phase of IADT, regardless of its length. The applicant did not perform any period of active duty of at least 90 days, and upon his release from the [REDACTED] "A" School in 1981—the second phase of his IADT—he was correctly issued a DD 214 that documents both phases of his IADT. His active duty at the recruit training camp in the summer of 1980 (the first phase of IADT) is shown in Block 12d of his DD 214 as "Total Prior Active Service." His active duty at [REDACTED] "A" School in the summer 1981 (the second phase of IADT) is shown in Block 12c of his DD 214 as "Net Active Service This Period." Therefore, the applicant's original DD 214 issued in 1981 was properly prepared in accordance with the instructions in COMDTINST M1900.4B, and it correctly documents both periods of his active duty training in 1980 and 1981. No additional DD 214 is authorized.

6. Accordingly, the Board finds no [REDACTED]nds for adding a new DD 214 to the applicant's record. The applicant's request should be denied, and the DD 214 prepared by PSC should not be entered in his record.

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

[REDACTED]

[REDACTED]

[REDACTED]

**ORDER**

The application of [REDACTED], USCGR (Retired), for correction of his military record is denied. No new DD 214 shall be entered in his record.

September 29, 2017

