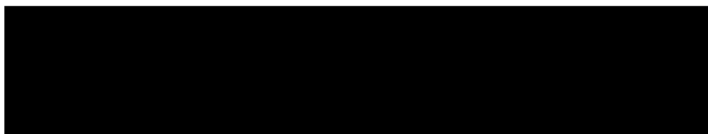


**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2017-028**



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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 November 10, 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 August 11, 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 November 29, 2007, alleged that he never received a DD 214<sup>1</sup> upon his discharge from the Reserve and asked the Board to correct his record by issuing him a DD 214, a Retirement Point Statement Summary, or a Statement of Creditable Service reflecting his service in the Reserve. He also requested an award certificate for his Good Conduct Medal from June 11, 2007, which he claimed was not included in his military record. Although the applicant was separated from the Coast Guard in 2007, he did not submit his application to the Board until November 2, 2016. The applicant stated that he only recently became aware that his total time in service had been calculated incorrectly, and he was unaware until this time that a DD 214, Retirement Point Statement Summary, or a Statement of Creditable Service should have been produced upon his separation from the Coast Guard Reserve.

The applicant stated that he requested a copy of his military record which was fulfilled on October 17, 2016, and there was no "final DD-214." He stated that he received a conditional release from the Coast Guard Reserve in order to "pursue a commission as an officer" with the

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<sup>1</sup> The DD 214, Certificate of Release or Discharge from Active Duty, 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 fewer than 90 days are not eligible to receive a DD 214.

Marine Corps. His initial enlistment contract with the Coast Guard had been for eight years, and he had completed six years of this obligation when he received a commission from the Marine Corps on November 30, 2007, while the applicant was still in the Individual Ready Reserve with the Coast Guard. He alleged that when he left the Coast Guard, his records were never properly received by the Marine Corps, so he is requesting a DD 214, Retirement Points Statement Summary, or Statement of Creditable Service, whichever is applicable, to document his time with the Coast Guard. He also stated that he received a Coast Guard Good Conduct Medal on June 11, 2007, but the certificate was not in his record. He therefore requested that his record be corrected by including the certificate.

In support of his application, the applicant provided various documents from his time in the Coast Guard, which are discussed below in the Summary of the Record.

### **SUMMARY OF THE RECORD**

The applicant enlisted in the Coast Guard Reserve on June 11, 2001, for a period of eight years.

The applicant received a DD 214 documenting active duty from September 15, 2001, to May 2, 2002. He was called onto Title 10 active duty orders “in response to the World Trade Center and Pentagon attacks.”

The applicant also received a DD 214 for the period from February 8, 2003, to October 20, 2003. He was again called onto Title 10 active duty orders “in response to contingency operation: Iraqi Freedom/Southern Watch/Enduring Freedom.”

On March 9, 2004, the applicant received a Coast Guard Unit Commendation and a citation for “exceptionally meritorious service from February 2003 to August 2003 during Operations Enduring Freedom and Iraqi Freedom.” On January 27, 2005, the applicant was authorized to wear the Global War on Terrorism Expeditionary Medal.

The applicant’s request for a conditional release from the Coast Guard Reserve was approved on January 13, 2007. The applicant had requested a conditional release so that he could enlist with the [REDACTED]. On November 29, 2007, the applicant accepted a “commission or warrant” with the [REDACTED] and entered into active duty.

The applicant received a letter from the Coast Guard on October 17, 2016, responding to his request for his military record. The letter states that his military record was enclosed.

### **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 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.B.10. of the Coast Guard Military Separations Manual, COMDTINST M1900.4D, states that reservists released from a period of ADT fewer than 90 days are not eligible to receive a DD 214.

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

On April 28, 2017, the Judge Advocate General of the Coast Guard submitted an advisory opinion recommending that the Board grant alternative 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 because the applicant was discharged in 2007. Notwithstanding the untimeliness, PSC argued that the applicant is not eligible to receive a DD 214 to document his discharge from 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.” 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 of 90 days or more in 2007 or at any point after the period for which he received his second DD 214 in 2003. Therefore, PSC argued that the applicant is not eligible for a DD 214.

PSC instead recommended that the applicant receive a Statement of Creditable Service in order to document his entire service in the Coast Guard Reserve. PSC also stated that they are in contact with the applicant to provide him a copy of his Coast Guard Reserve Retirement Point Statement directly.

In regards to the applicant’s Good Conduct Medal request, PSC stated that according to his Direct Access page (a Coast Guard human resources database), the applicant was issued a Coast Guard Reserve Good Conduct Medal on June 11, 2007. PSC therefore recommended that the applicant be issued a certificate to be included in a copy of his electronic military record.

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

On May 2, 2017, the Board sent the applicant a copy of the Coast Guard’s views and invited him to respond within 30 days. He responded on May 8, 2017, and did not object to the Coast Guard’s recommendation.

### **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 2007 but did not submit his application to the Board until November 2, 2016. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged error (his lack of receipt of a DD 214 and a Reserve Good Conduct Medal in 2007) in his record in 2007 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 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 became aware in 2016 that he should have been provided with a DD 214, Retirement Point Statement Summary, or a Statement of Creditable Service upon leaving the Coast Guard. The Board finds that the applicant knew or should have known in 2007 that he had not received a DD 214 after the October 20, 2003, DD 214, 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 through 2007. He is not eligible to receive a final DD 214 because Paragraph 2.d. of DoDI 1336.01 and Chapter 1.B.10. of COMDTINST M1900.4D state that reservists released from ADT of fewer than 90 days are not eligible to receive a DD 214, and the record shows that the applicant did not perform any continuous active duty for training of at least 90 days after 2003.

6. The applicant is entitled to documentation of his total service in the Coast Guard Reserve, however, and the Coast Guard recommended that the Board grant the applicant’s request for a Statement of Creditable Service. The record shows that the applicant served in the Coast Guard Reserve from June 11, 2001, to November 29, 2007. Accordingly, the Board will grant relief by directing the Coast Guard to prepare a Statement of Creditable Service for the applicant to formally document all of his active and inactive duty in the Reserve. The Board also notes that the applicant should receive, if the Coast Guard has not yet sent it to him, a Coast Guard Reserve Retirement Point Statement.

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

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

7. The Board also finds that the applicant was awarded a Coast Guard Reserve Good Conduct Medal on June 11, 2007. However, there are only citations for the applicant's Coast Guard Unit Commendation and the Global War on Terrorism Expeditionary Medals in his record. The Board will therefore grant relief by directing the Coast Guard to issue the applicant a certificate for the Coast Guard Reserve Good Conduct Medal, which should be included in his electronic military record.

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

[REDACTED]

**ORDER**

The application of former [REDACTED], USCGR, for correction of his military record is granted as follows: The Coast Guard shall prepare and send him a Statement of Creditable Service which captures all of his active and inactive duty in the Coast Guard Reserve, as well as the Coast Guard Reserve Retirement Point Statement mentioned in the Coast Guard's advisory opinion. The Coast Guard shall also issue him a certificate for his June 11, 2007, Coast Guard Reserve Good Conduct Medal. These three documents shall be entered in his military record.

August 11, 2017

