


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2018-088


 DC2 (former)

FINAL DECISION ON RECONSIDERATION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 425. The Chair docketed the case for reconsideration because the applicant is entitled to documentation of his active and inactive military service. The Chair docketed this case on February 9, 2018, and assigned it to staff member  to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated December 7, 2018, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

BACKGROUND: BCMR DOCKET NO. 2015-187

In BCMR Docket No. 2015-187, the applicant, a former Damage Controlman second class (DC2/E-5) who served in the Coast Guard Reserve,¹ asked the Board to create a DD 214² documenting the active service that he performed during eight years in the Coast Guard Reserve. He stated that he needed a DD 214 documenting that active duty time to obtain benefits from the U.S. Department of Veterans Affairs (VA).

The applicant enlisted in the Coast Guard Reserve on June 19, 1953, and drilled regularly as a member of the Selected Reserve and earned the DC2 rating. He was honorably separated from the Coast Guard on June 18, 1961, after completing his eight-year military service obligation in the Coast Guard Reserve. The applicant completed multiple short periods of active

¹ A reservist is a member of the Coast Guard Reserve force; they are otherwise civilians and may have careers outside the military. The Reserve Component (RC) is comprised of newly accessed officers, enlisted, and prior active duty members who have joined the RC voluntarily, or affiliate to complete their remaining military service obligation. Chapter 1.A. of COMDTINST M1001.28B, the Coast Guard Reserve Policy Manual.

² 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.

duty for training (ADT) from 1953 to 1959 but no period of ADT lasted longer than fourteen days. Upon his discharge on June 18, 1961, the Coast Guard provided him with an Honorable Discharge certificate (DD Form 256) and entered a Record of Discharge form in his record.

The Coast Guard recommended that the Board deny relief, noting that the applicant's request was not timely because he was discharged in 1961 and did not submit his application for correction until 2015. With regards to the merits, the judge advocate (JAG) argued that relief should be denied because the applicant is not eligible to receive a DD 214. The attorney noted that Enclosure 2 to Department of Defense Instruction (DoDI) 1336.01 states that only members being separated from a period of active duty of 90 days or more will be furnished a DD Form 214. The JAG stated that the applicant was not an active duty member nor was he being discharged from a period of active duty having served 90 days or more, and therefore he is not eligible to receive a DD 214. The JAG concluded that the applicant failed to meet his burden of showing that there is an error or an injustice in his record and that he is entitled to relief.

The Board decided the applicant's case on June 17, 2016. It denied relief because the application was untimely and the applicant had failed to prove that he was eligible to receive a DD 214. The Board noted that the applicant had never served at least 90 days on continuous active duty and was thus not eligible to receive a DD 214.

SUMMARY OF APPLICANT'S REQUEST FOR RECONSIDERATION

After the Chair sent the applicant a copy of the Board's decision to deny relief in his original case on June 20, 2016, he submitted his request for reconsideration on December 15, 2017, stating that that he had performed 120 days of active duty in his eight years in the Coast Guard Reserve and wants a DD 214 reflecting that time so he can obtain VA benefits.

VIEWS OF THE COAST GUARD

On June 15, 2018, the Board received the Coast Guard's response to the applicant's request for reconsideration. The Coast Guard interpreted the applicant's reconsideration request as a request for an accurate Reserve statement of service and not a DD 214. Accordingly, the Coast Guard prepared a new Reserve Record of Service reflecting all of his active duty for training (ADT) and mailed a copy to him. The Coast Guard also provided a copy to the Board and asked it to administratively close the case because the applicant's record had been corrected. The Reserve Record of Service prepared by the Coast Guard shows that the applicant performed ADT on the following dates:

Start Date	End Date	Length of Service
June 23, 1953	August 8, 1953	47 days
July 4, 1954	July 17, 1954	14 days
July 17, 1955	July 30, 1955	13 days
July 29, 1956	August 11, 1956	13 days
April 19, 1958	May 2, 1958	13 days
May 31, 1959	June 13, 1959	13 days

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On June 27, 2018, the Chair mailed the applicant a copy of the views of the Coast Guard and invited him to respond within thirty days. He responded via email on July 16, 2018, and stated that he disagreed that his case should be administratively closed. The applicant argued that his case should not be closed because the Coast Guard did not provide him with the DD 214 that he requested and, without it, he cannot obtain certain benefits from the VA. He claimed that the Ready Reserve Act of 1953 did not allow continuous active duty of 90 days or more so there is no way he could have served on active duty long enough to receive a DD 214.

APPLICABLE LAW AND POLICY

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.A.2. of COMDTINST M1900.4A,³ the instruction for preparing DD 214s, states that reservists being released from active duty for training are eligible for a DD 214 if they are being separated from a period of active duty of at least 90 days.

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. The applicant's request for reconsideration was timely filed.

2. 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.⁴ 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."⁵

³ COMDTINST M1900.4A was issued in 1975 and is the earliest complete copy of this manual available to the Board.

⁴ 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)).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

3. As the Board found in BCMR Docket No. 2015-187, the applicant has not proven by a preponderance of the evidence that he is eligible to receive a DD 214 because he did not perform a period of active duty lasting at least 90 consecutive days, as required by COMDTINST M1900.4A and DOD Instruction 1336.01. A DD 214 is a “Certificate of Discharge or Release from Active Duty,” and it is used to document a period of enlistment on active duty by a regular member of the regular Coast Guard or an extended period (at least 90 consecutive days) of ADT by a member of the Coast Guard Reserve. The applicant was a reservist, and so to receive a DD 214, he would have to have served on active duty for at least 90 *consecutive* days, but he did not.

4. The record shows that the applicant faithfully served in the Coast Guard Reserve from June 19, 1953, to June 18, 1961, and performed several short periods of active duty, and he is entitled to documentation of this military service. The Coast Guard, however, has already provided the applicant with the appropriate documentation, which is a Reserve Record of Service. The Reserve Record of Service shows that he enlisted in the Coast Guard Reserve on June 19, 1953, and was honorably discharged on June 18, 1961. It also lists his dates of active duty and shows that he served six separate periods of active duty between 1953 and 1959, with the longest being 47 days.

5. Accordingly, because the applicant is not eligible for a DD 214 and because the Coast Guard has already provided him with a Reserve Record of Service, no further relief is warranted and his request for a DD 214 should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of former DC2 [REDACTED], [REDACTED], USCGR, for correction of his military record is denied.

December 7, 2018

