

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 December 2023

DOCKET NUMBER: AR20230004807

APPLICANT REQUESTS: reconsideration of his previous request(s) to show completion of 20 years of active service.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Permanent Disability Retirement List Orders D191-2, 28 September 2000
- Temporary Disability Retirement List (TDRL) Orders D111-1, 6 June 1997
- Denial Letter from U.S. Army Human Resources Command, 6 December 2022

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Dockets Number:

- AR20130016458, on 22 May 2014
- AR20140015886, 21 April 2015
- AR20150014004, 20 December 2016

2. The applicant states he actually served 20 years. He was placed on the temporary disability retired list (TDRL) in 1997 but he was not actually discharged (permanent disability) until 29 September 2000. Reserve time was not counted. He wants the Board to reconsider the previous decisions and adjust his total time in service and retirement with 20 years.

3. Review of the applicant's service records shows:

a. The applicant enlisted in the Regular Army (active duty) on 26 August 1980. He served through multiple reenlistments in a variety of assignments, and he attained the rank of staff sergeant (SSG)/E-6.

b. He served in Germany beginning around August 1995. Around 5 February 1997, he was medically transferred from Landstuhl Regional Medical Center (LRMC) to Walter Reed Medical Center (WRMC), Washington, DC.

c. A memorandum, 30 April 1997, from Inpatient Psychiatry Services, WRMC, stated the applicant was admitted to Inpatient Psychiatry in early February 1997 and diagnosed with schizophrenia, paranoid type.

d. The complete facts and circumstances surrounding his disability processing (i.e., his medical evaluation board and physical evaluation board (MSB/PEB) are not available for review. However, his records contain Orders D111-1, dated 6 June 1997, issued by the U.S. Total Army Personnel Command (PERSCOM), Alexandria, VA, releasing him from his assignment effective 27 June 1997 and placed him on the TDRL in his retired rank/grade of SSG/E-6 effective 28 June 1997 at a combined disability rate of 30%.

e. His DD Form 214 shows he was honorably retired from active duty on 27 June 1997 in the rank of SSG and placed on the TDRL on 28 June 1997, by reason of temporary disability. He completed 16 years, 10 months, and 2 days of net active service.

f. On 15 September 2000, a TDRL physical evaluation board (PEB) convened and found the applicant's condition of paranoid schizophrenia had not improved to the extent that he is now fit for duty. However, his condition had stabilized for final adjudication. The TDRL PEB assigned a 70% rating and his disposition as permanent disability retirement.

g. On 28 September 2000, the U.S. Army Physical Disability Agency published Orders D191-2 removing the applicant from the TDRL and permanently retiring him at a disability rating of 70% effective 29 September 2000.

4. By regulation (AR 635-5), the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. A DD Form 214 will not be prepared for Soldiers removed from the TDRL [The Soldier is NOT on active duty between the time they are placed on the TDRL to the time they are removed from the TDRL and placed on the PDRL; they are in a retired status].

5. On 22 May 2014 (AR20130016458), the Board denied his request and stated:

a. The applicant's contention that his DD Form 214 should be corrected to show 20 years of active service was carefully considered and appears to lack merit. The applicant enlisted in the Regular Army on 26 August 1980 and served on active duty

until he was retired on 27 June 1997 and was placed on the TDRL on 28 June 1997, which amount to 16 years, 10 months, and 2 days of active service.

b. Therefore, since the applicant has not provided sufficient evidence to show he had active service, which is not reflected on his DD Form 214, there appears to be no basis to grant his request to add additional service to his DD Form 214.

6. On 21 April 2015 (AR20140015886), the Board again denied his request and stated:

a. The applicant contends that he completed 18 years of military service. He argues that he served 1 year in the DEP (Delayed Entry Program) and had another 1 year authorized for out-processing. The available evidence of record clearly shows that the applicant entered the DEP on 9 July 1980. He remained in the DEP for 1 month and 17 days, after which he enlisted in the Regular Army. He remained in the Regular Army until his retirement due to physical disability on 27 June 1997. This gave him 16 years, 10 months, and 2 days of active duty service. His initial retired service in a TDRL status does not qualify as active duty.

b. The applicant's reference to having an authorized period of 1 year to complete his separation processing does not mean he is entitled to service credit for the time he needs to relocate his family and personal property. In view of the above, there is no apparent error or injustice in what the Army did. Therefore, the applicant's request should be denied.

7. On 20 December 2016 (AR20150014004), the Board again denied his request and stated:

a. The available evidence shows the applicant sustained a medical condition that warranted his entry into the disability evaluation system. He appears to have been evaluated by a medical evaluation board that referred him to a PEB. A PEB convened in 1997 and found him unfit due to paranoid schizophrenia. The PEB recommended a 30% combined disability rating and placement on the TDRL with future reexamination. The available evidence also shows a TDRL PEB convened on 15 September 2000 and found the applicant's condition of paranoid schizophrenia still rendered him unfit for military service. The TDRL PEB rated assigned a 70% disability rating. .

b. The evidence of record confirms he was removed from the TDRL and permanently retired on 29 September 2000 by reason of permanent disability with a 70% rating. Although his orders did not state he was placed on the PDRL, placement on the retired list by reason of permanent disability is the same as placement on the PDRL. His DD Form 214 correctly shows he completed 16 years, 10 months, and 2 days of active service.

8. On 6 December 2022, the U.S. Army Human Resources Command informed the applicant that the service time listed on the DD Form 214 is correct as issued. When a soldier is removed off TDRL as permanent disability retirement or separated with severance pay a DD Form 215 is not required to correct the Soldier's disposition or type of separation. Block 23 on the DD Form 214 states retirement which is correct and the separation code block 26 is SFK which is a retirement. AR 635-8, Chapter 5, paragraph 5-2 item c, states a DD Form 214 will not be prepared for the following: Removed from TDRL.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered applicant's contentions, the military record, and regulatory guidance. The available evidence shows the applicant had sustained a medical condition that warranted his entry into the disability evaluation system. Evidence supports that the applicant was properly assessed by a Temporary Disability Retirement Board, assigned a disability rating and a disposition as permanent disability retirement in accordance with applicable regulatory guidance. The Board agreed that the available documentation did not reveal any additional periods of activity duty prior to the applicant being placed on the TDRL, and, by regulation, a non-active duty status. After due consideration of the request, the Board determined the evidence presented insufficient to warrant a recommendation for relief.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            GRANT FULL RELIEF

:            :            :            GRANT PARTIAL RELIEF

:            :            :            GRANT FORMAL HEARING

█           █           █            DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20150014004, 20 December 2016



I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

Army Regulation 635-5 (Separation Documents), in effect at the time, prescribed the separation documents that must be prepared for Soldiers on retirement, discharge, or release from active duty service or control of the Active Army. It established standardized policy for preparing and distributing the DD Form 214. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. The general instructions stated all available records would be used as a basis for preparation of the DD Form 214. A DD Form 214 will not be prepared for Soldiers removed from the TDRL.

//NOTHING FOLLOWS//