

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 January 2023

DOCKET NUMBER: AR20230005918

APPLICANT REQUESTS:

- issuance of a DD Form 214 (Certificate of Release or Discharge from Active) or DD Form 220 (Active Duty Report) for all his periods of active service
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states a DD Form 214 or the reserve equivalent listing all his active service are missing from his records, which is keeping him from getting service-connected disability compensation and/or reduction of other benefits provided the Department of Veterans Affairs.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 24 August 1995 for a period of eight years.
4. Orders issued on 25 August 1995 ordered the applicant to initial active duty for training (IADT) with a reporting date of 3 January 1996. The period of IADT was for 16 weeks or until completion of basic combat training (BCT) and advanced individual training (AIT).
5. A DA Form 2173 (Statement of Medical Examination and Duty Status) shows that on 22 January 1996, the applicant was climbing out of a foxhole when his foot slipped off a metal rung hitting his knee and causing a tear in the cartilage.

6. An endorsement issued by the U.S. Army Chemical and Military Police (MP) Center, Fort McClellan, AL, dated 25 March 1996, shows the applicant reported to Fort McClellan on 3 January 1996 for IADT. The endorsement also shows he was released from IADT on 27 March 1996 due to an injury which occurred while on active duty. The endorsement further shows his military occupational specialty (MOS) training was required to be accomplished within the next 12 months.

7. The applicant's available records do not contain a DD Form 214 or a DD Form 220 documenting his active duty service from 3 January to 27 March 1996.

8. An endorsement issued by the U.S. Army Chemical and MP Center, Fort McClellan, AL, dated 15 May 1997, shows the applicant arrived at Fort McClellan on 14 March 1997 to attend the MOS 95B (MP) course. The endorsement also shows he was released from active duty on 19 May 1997 due to medical problems with his knee. The endorsement further states the applicant had completed BCT.

9. A letter issued by the Fort McClellan Transition Center shows the applicant entered active on 14 March 1997 and his tour of duty terminated on 19 May 1997. Line 8 of the letter states the letter was issued in lieu of DD Form 220, in accordance with Army Regulation 635-5 (Separation Documents).

10. The applicant was discharged from the USAR on 27 August 2003.

BOARD DISCUSSION:

1. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. 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 the applicant's contentions, military record, and regulatory guidance. Documentation available for review shows that the applicant was injured during training and, subsequent to an investigation, he was released from Active Duty.

3. Although, the applicant's available records do not contain a DD Form 214 or a DD Form 220 documenting his active duty service from 3 January to 27 March 1996, documentation shows he was issued a letter from the transition center in lieu of a DD Form 220 in accordance with applicable regulatory guidance in effect at the time. After due consideration of the case, the Board determined the evidence presented insufficient to warrant a recommendation for relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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 for correction of the records of the individual concerned.

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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:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 635-5, in effect at the time, prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established standardized policy for the preparation and distribution of the DD Form 214. It states:

a. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge.

b. A DD Form 214 will be prepared for USAR and Army National Guard Soldiers after completing 90 days or more of continuous active duty and/or after completing initial active duty for training which resulted in the award of an MOS, even though the active duty was less than 90 days. This includes completion of AIT under the USAR Split Training Program.

c. A DD Form 220 will be prepared upon completion of the BCT portion for members enlisted under the USAR Split Training Program.

d. Give the original DD Form 220 to the separatee. File the copy in the records for use in preparing the DD Form 214 upon completion of AIT, at which time it will be destroyed.

e. When DD Form 220 is not available, provide the same data by letter.

3. Army Regulation 15-185 (ABCMR) provides Department of the Army policy, criteria, and administrative instructions regarding an applicant's request for the correction of a military record. Paragraph 2-11 states applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//