

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 November 2023

DOCKET NUMBER: AR20230006240

APPLICANT REQUESTS: correction of his DD Form 214 (Report of Separation from Active Duty) to show a later discharge date.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record), 9 March 2023.

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, in effect:
  - a. His date of discharge should be September 1977.
  - b. He was in the hospital in Pirmasens, Germany during Christmas 1976 and he did not arrive at Fort Dix until September 1978. His (hospital) discharge would have been in 1976.
3. The applicant provided his application with a statement outlined above.
4. A review of the applicant's records shows:
  - a. On 6 May 1975, he enlisted in the US Army Reserve (USAR) Delayed Entry Program (DEP).
  - b. On 8 June 1975, he was discharged from the USAR DEP in order to enlist in the Regular Army.
  - c. On 9 June 1975, he enlisted in the RA for 3 years.

d. On 8 October 1975, he was assigned to Headquarters Battery, 2d Battalion, 56th Air Defense Artillery, Germany.

e. On 12 October 1976, his Company Commander, Headquarters Battery, 2d Battalion, 56th Air Defense Artillery, notified him he was initiating action to discharge him from the US Army under the Expeditious Discharge Program (EDP).

f. On 14 October 1976, he underwent a medical examination and gave a report of medical history. He indicated he was in fair condition and the examining physician noted his diagnosis, indicated he needed civilian follow up and care, and noted he was qualified for reenlistment or retention.

g. On 22 October 1976, his intermediate commander recommended his discharge under the EDP.

h. On 26 October 1976, the separation approval authority (Battalion Commanding Officer, 2d Battalion), approved the recommendation and directed issuance of a General Discharge Certificate.

i. On 3 November 1976, he was discharged from the RA. His DD Form 214 shows he completed 1 year, 4 months, and 25 days of net active service this period; and 23 days of prior inactive service. It further shows in:

- block 9d (Effective Date) –3 November 1976
- block 15 (Date Entered Active Duty This Period) – 9 June 1975

5. Army Regulation 635-5 (Separation Documents), instructed to enter on the DD Form 214 the date entered active duty and the effective date of separation from orders, the DA Form 20, or from source documents in the service record.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The applicant's service record clearly confirms his discharge date was 3 November 1976. The Board determined the effective date of discharge recorded on his DD Form 214 is not an error.

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 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.



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 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. Army Regulation 635-5 (Separation Documents), in effect 15 October 1973 prescribed the separation documents that were furnished individuals who were retired, discharged, or released from active military service, including members of Reserve components on active duty for training (ADT) or full-time training duty (FTTD) and US Military Academy cadets.

a. 1-2. Separation documents. Separation documents provide the recipients with a record of their military service; the Army with a source of information for administrative purposes; and other governmental agencies with an authoritative source of information for administering Federal and State laws pertaining to veterans. Authorized separation documents and personnel to whom they are issued are listed in table 1-1.

b. 2-1. General. This regulation prescribes the separation documents that are furnished individuals who are retired, discharged, or released from active military service, including members of Reserve components on active duty for training (ADT) or full-time training duty (FTTD) and US Military Academy cadets.

c. 2-2. Source documents. DA Form 20 (Enlisted Qualification Record) and DA Form 66 (Officer Qualification Record) are the basic source documents for preparing DD Form 214WS (Worksheet). However, in preparing DD Form 214WS, personnel officers should review all available documents such as the MPRJ (Military Personnel Records Jacket), DA Form 2143 (Military Personnel Financial Data Records, US Army), DA Form 3716 (Personal Financial Record), reassignment orders, enlistment or induction records, and any DD Form 214 for prior service.

(2) Item 9d (Effective Date) – Effective date of separation will be shown in using all numerals, e.g., 73 for year, 01 for January.

(3) Item 15 (Date Entered Active Duty This Period) – Enter date using all numerals, e.g., 73 for year, 01 for January.

//NOTHING FOLLOWS//