

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 October 2023

DOCKET NUMBER: AR20230006750

APPLICANT REQUESTS: in effect, review of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to confirm:

- a correct date of entry
- a correct date of end of term of service
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 13 March 2023
- DD Form 214, 12 August 1981

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 he is trying to retire and needs one more point to retire. He is missing/short of 3 years and corrected dates should give him the one point he needs to retire. The applicant references Block 11 (Primary Specialty Number, Title, Years and Months in Specialty) which indicates he served 5 years and 8 months in the primary specialty.
3. The applicant provided copies of:
 - a. His DD Form 149 and self-authored statement outlined above.
 - b. His DD Form 214 for the period ending 12 August 1981.
4. A review of the applicant's service records shows:
 - a. On 28 March 1975, his parent granted him consent to enlist at age 17.

b. On 4 April 1975, he enlisted in the Illinois State Army National Guard (ILARNG) for a period of 6 years.

c. On 30 July 1975, he entered active duty (AD) for initial active duty training (IADT).

d. On 15 November 1975, he completed IADT, he was awarded military occupational specialty 13B (Field Artillery Basic), he was honorably released from AD, and he was returned to control of the ILARNG. His DD Form 214 (Report of Separation from Active Duty) shows in:

- Item 17c (Total Active Service) – 3 months and 16 days
- Item 17d (Prior Inactive Service) – 3 months and 26 days

e. Orders 88-9 issued by State of Illinois, Military and Naval Department, 3 May 1979, involuntarily discharged him from the ILARNG and as a Reserve of the Army, effective 23 May 1979, and ordered him to AD under provisions of Army Regulation 135-91. An NGB Form 22 (National Guard Report of Separation and Record of Service) is not contained in the available records.

f. Orders 72-109, issued by Headquarters (HQ), Fifth United States Army, Fort Sam Houston, placed him on AD with a reporting date of 24 May 1979 and an active duty commitment of 19 months and 14 days. The reason for this assignment was to perform involuntary active duty in accordance with Army Regulation 135-91

g. He was assigned to Battery C, 1-19th Field Artillery, Fort Carson, in the MOS 13B. Block 11 identifies the applicant's full time in the military occupational specialty, to include his time in the ILARNG; however, the time is not indicative his active service period.

h. He received nonjudicial punishment and he was subsequently issued a Bar to Reenlistment Certificate on 26 May 1980.

i. A DA Form 4187 (Personnel Action) shows his status changed from present for duty (PDY) to confined by civilian authorities on 11 August 1980.

j. A second DA Form 4187, 27 February 1981 shows his status was changed from confinement by civilian authorities to PDY on 27 February 1981 (6 months and 17 days).

k. Orders 155-403, 11 August 1981, issued by HQ, 4th Infantry Division, Fort Carson discharged the applicant from active duty with an effective date of 12 August 1981.

I. On 12 August 1981, he was honorably discharged under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), chapter 2 by reason of completion of service. His reenlistment code was 3. His DD Form 214 for this period further shows in:

- Block 11 (Primary Specialty Number, Title, and Years) – 13B, Cannon Crewman, 5 years, and 8 months
- Block 12a (Date Entered AD This Period) – 24 May 1979
- Block 12b (Separation Date This Period) – 12 August 1981
- Block 12c (Net Active Service This Period) – 1 year, 7 months and 29 days (upon subtracting time lost and excess leave)
- Block 12d (Total Prior Active Service) – 3 months and 16 days
- Block 12e (Total Prior Inactive Service) – 3 years, 10 months, and 5 days
- Block 18 (Remarks), in part, excess leave, 63 days (9 June 1981 to 12 August 1981)
- Block 29 (Dates of Time Lost During This Period) – 11 August 1980 to 27 February 1981 [6 months and 17 days]

5. A review of the applicant's service record indicates he was not eligible for a military retirement. It is unknown if the applicant is referencing a civil service retirement.

6. By regulation (AR 635-5), for item 12c (Net Active Service this Period) all service entered will be less time lost under Title 10 U.S.C. Section 972 and time lost after expiration of term of service.

7. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

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 and all supporting documents, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records and regulatory guidance regarding the DD214. A DD214 is a summary of a Soldier's most recent period of continuous active duty. As such, 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. Prior to 1 October 1979, a DD214 was issued for each period of active duty.

Documentation available for review shows the applicant had an initial period of active duty training for which he was issued a DD214 dated 15 November 1975.

Documentation further shows he had a second period of active duty for which he obtained an MOS and issued a second DD214 dated 12 August 1981. After due consideration of the request, the Board determined the documentation available for review correctly reflects the applicant's periods of active duty in accordance with applicable regulatory guidance and there is no basis upon which 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.



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 (ABCMR) 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, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

3. Army Regulation 635-5 (Separation Documents), in effect at the time, states 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.

a. The instructions for item 12a (Date Entered Active Duty This Period) read, enter the date of the first day of the last immediate reenlistment for which a DD Form 214 was not issued.

b. The instructions for item 12b (Separation Date This Period) read, self-explanatory, meaning enter the date of separation from active duty.

c. The instructions for item 12c (Net Active Service this Period) read, all service entered will be less time lost under Title 10 U.S.C. Section 972 and time lost after expiration of term of service.

d. The instructions for item 12d (Total Prior Inactive Service) read, all service entered will be less time lost under Title 10 U.S.C. Section 972 and time lost after expiration of term of service.

e. The instructions for item 12e (Total Prior Inactive Service) read, all service entered will be less time lost under Title 10 U.S.C. Section 972 and time lost after expiration of term of service.

//NOTHING FOLLOWS//