

IN THE CASE OF: ██████████

BOARD DATE: 14 December 2023

DOCKET NUMBER: AR20230006889

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his service in Desert Shield/Storm from 26 November 1990 to 3 April 1991.

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

- DD Form 149 (Application for Correction of Military Record), 24 February 2023
- Certificate of Service, Operation Desert Shield, 29 March 1991
- DA Form 2166-7 (Noncommissioned Officer Evaluation Report (NCOER)), August 1991
- DD Form 214, 19 August 1992

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 filing a claim under the PACT Act and needs proof of his service in Desert Shield/Storm.
3. The applicant, having 6 years and 6 months total prior active service, enlisted in the Regular Army on 23 May 1984. He served in military occupational specialty 54B (Chemical Operations Specialist).
4. The applicant provides:
  - a. Certificate of Service from the Chief of Staff, Headquarters, 24th Infantry Division (Mechanized) awarded 29 March 1991, in recognition of his faithful and exemplary performance of duty with the Victory Division during Operation Desert Shield.

b. NCOER from November 1990 through August 1991. Part III d., (Areas of Special Emphasis) notes, "Planned/Coordinated battalion level chemical exercises during Operation Desert Shield." Part IV b., notes, "Technical competence proved invaluable during Operations Desert Shield/Storm."

5. On 19 August 1992, he was honorably discharged under the Fiscal Year 92 Enlisted Voluntary Early Transition Program. The DD Form 214 he was issued contains the following entries:

a. Item 12f (Foreign Service) contains the entry, "04 03 19."

b. Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):

- Army Service Ribbon
- National Defense Service Medal
- Army Lapel Button
- Southwest Asia Service Medal with 2 bronze service stars
- Army Commendation Medal (4th oak leaf cluster)
- Kuwait Liberation Medal
- Overseas Service Ribbon (3rd Award)
- Expert Marksmanship Qualification Badge with Rifle Bar
- Army Achievement Medal (2nd oak leaf cluster)
- Noncommission Officer Professional Development Ribbon with Numeral "3"

c. Item 18 (Remarks) does not include remarks regarding foreign/deployed service.

6. The applicant's name is listed in the Defense Manpower Data Center (DMDC). The DMDC compiled the Operations Desert Shield/Desert Storm (the Gulf War) database, which is the primary file that contains one record for each active duty member who participated in theater. The database shows he was deployed to Southwest Asia from 5 October 1990 to 26 March 1991 (a period of 5 months and 22 days).

7. Army Regulation 635-5 (Separation Documents), then in effect, established the standardized policy for preparing and distributing the DD Form 214. Chapter 2 contains guidance on the preparation of the DD Form 214, to include entering awards, foreign service and remarks pertaining to deployment locations and through dates.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found partial relief is warranted.
2. The Board found the Gulf War Database created by DMDC to be the more accurate account of his period of service in Southwest Asia than the dates he provided in his application. The Board determined his DD Form 214 should be corrected to show he served in Southwest Asia from 5 October 1990 to 26 March 1991.
3. The Board concurred with the correction described in Administrative Note(s) below.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD Form 214 for the period ending 19 August 1992 as follows:

- Add to item 18 – Service in Southwest Asia from 5 October 1990 to 26 March 1991
- Make the correction described in Administrative Note(s) below

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any relief in excess of that described above.

2/15/2024

X

CHAIRPERSON

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.

ADMINISTRATIVE NOTE(S): make the following administrative correction to the applicant's DD Form 214 for the period ending on 19 August 1992 without action by the Board -

- delete the Kuwait Liberation Medal
- add the -
  - Kuwait Liberation Medal - Saudi Arabia
  - Kuwait Liberation Medal - Kuwait

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 600-8-22 (Military Awards) states -

a. The Kuwait Liberation Medal awarded by the Kingdom of Saudi Arabia was approved on 3 January 1992 and is awarded to members of the Armed Forces of the United States who participated in the Persian Gulf War between 17 January 1991 and 28 February 1991.

b. The Kuwait Liberation Medal awarded by the Government of Kuwait was approved on 9 November 1995 and is awarded to members of the Armed Forces of the United States who participated in the Persian Gulf War between 2 August 1990 and 31 August 1993.

3. Army Regulation 635-5 (Separation Documents), then in effect, 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 of the DD Form 214. In pertinent part, it stated that the DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form should be complete and accurate. Chapter 2 of Army Regulation 635-5 contains guidance on the preparation of the DD Form 214. It states, in pertinent part, that for:

a. Item 12f, enter the total amount of foreign service completed during the period covered by the DD Form 214.

b. Item 13, list awards and decorations for all periods of service in the priority sequence specified in Army Regulation 600-8-22. Each entry will be verified by the Soldier's records. Do not use abbreviations.

c. Item 18, for an active duty Soldier deployed with his or her unit during their continuous period of active service, enter statement "SERVICE IN (NAME OF COUNTRY DEPLOYED) FROM (inclusive dates for example, YYYYMMDD - YYYYMMDD)."

4. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. Paragraph 2-9 contains guidance on the burden of proof. It states that the ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. 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.

//NOTHING FOLLOWS//