

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 January 2024

DOCKET NUMBER: AR20230007289

APPLICANT REQUESTS: in effect, reconsideration of his previous request to change his Reentry (RE) Eligibility Code on his DD Form 214 (Certificate of Release or Discharge from Active Duty) from RE-4R to RE-1 and a personal appearance hearing before the Board via video conference.

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

- DD Form 149 (Application for Correction of Military Record)
- Enlisted Record Brief (ERB), 6 January 2016
- 5 DA Forms 2166-8 (Noncommissioned Officer Evaluation Report (NCOER))

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 Docket Number AR20180000626 on 27 November 2019.
2. The applicant provides a new argument or evidence not previously considered by the Board.
3. The applicant states, in effect, he submitted his retirement while stationed at Fort Belvoir, VA, because there were only two E7 slots. He felt he would not have a chance to be promoted while at Fort Belvoir. At the time, if he had been given the opportunity to be stationed somewhere else to meet the needs of the Army, he believes he would have had a better chance to be promoted. He claims there is a need for E7 Military Police, and he possesses the required training and experience. He requests the opportunity to fulfill the indefinite contract he signed upon his promotion to staff sergeant/E6.
4. Having 11 years and 7 days of total prior active service, the applicant entered active duty on 5 November 2004 in military occupational specialty (MOS) 31B (Military Police).

5. Having sufficient service for retirement, on 30 June 2016, he retired honorably under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 12 (Retirement for Length of Service). The DD Form 214 he was issued shows he performed 10 years, 7 months, and 29 days net active service this period. The form further shows his Separation Code as RBD and his RE Code as 4R. The applicant was placed on the retired list on 1 July 2016.
6. The applicant provides copies of his NCOERs from 1 September 2010 through 9 January 2015. The forms show that he performed in MOS 31B at Fort Belvoir, VA, from 1 September 2010 through 30 August 2012. After serving a year in Korea as an Operations Sergeant in MOS 31B, he returned to Fort Belvoir, VA, to serve in MOS 31B as a Traffic Management and Collision Investigator.
7. Army Regulation 601-210 (Active and Reserve Components Enlistment Program), then in effect, prescribes eligibility criteria governing the enlistment of persons, with or without prior service (PS), into the Regular Army, the Army Reserve, and the Army National Guard. Paragraph 3-24 (Correction of Army RE Codes), states that PS Army personnel will be advised that RE Codes may be changed only if they are determined to be administratively incorrect. No requirement to change RE Code exists to qualify for enlistment.
8. Army Regulation 15-185 (ABCMR) states 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. The Board determined 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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence of record shows the applicant retired due to length of service under the provisions of chapter 12 of AR 625-200 and assigned Separation Code RBD. The RE code associated with this Separation Code and this type of retirement is RE-4R. The Board found no error or injustice in his RE Code, and thus determined relief is not warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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 to amend the decision of the ABCMR set forth in Docket Number AR20180000626 on 27 November 2019.

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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 601-210, then in effect, prescribes eligibility criteria governing the enlistment of persons, with or without PS, into the Regular Army, the Army Reserve, and the Army National Guard. Provides policies and procedures to process applicants for enlistment in the Regular Army Delay Entry Program (DEP) and on delayed status (DS), Army Reserve Delayed Training Program (DTP) and the DEP, DTP and DEP are not applicable to the Army National Guard. Provides policy and procedures governing the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps (ROTC) cadets under the ROTC Simultaneous Membership Program (SMP).

a. Paragraph 3-22 (RE Codes and Separation Program Designator (SPD), any component), the PS personnel who were released early to attend school or received Special Separation Benefit/Voluntary Separation Incentive separation pay and received an SPD code of KCB, KCF, MCA, MCB, or KCA may enlist without RE Code waiver. Personnel who enlisted in the Army Reserve who never shipped to Initial Active Duty Training that subsequently were discharged for being an unsatisfactory participant may enlist without waiver.

b. Table 3-1 (U.S. Army RE Codes), RE-1 applies to person completing their term of active service who is considered qualified to reenter the U.S. Army, eligibility: qualified for enlistment if all other criteria are met. RE-4R, applies to a person who retired for length of service with 15 or more years of Active Federal Service, eligibility: ineligible for enlistment.

c. Paragraph 3-24 (Correction of Army RE Codes), PS Army personnel will be advised that RE Codes may be changed only if they are determined to be administratively incorrect. Applicants who have corrected RE Codes will be processed for a waiver at their request if otherwise qualified and waiver is authorized. No requirement to change RE Code exists to qualify for enlistment. Only when there is evidence to support an incorrect RE Code or when there is an administrative error will an applicant be advised to request a correction. Do not advise applicants to contact the Discharge Review Board or the ABCMR when applicant is eligible to request a waiver.

3. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. 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. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//