

IN THE CASE OF: ██████████

BOARD DATE: 14 February 2024

DOCKET NUMBER: AR20230007614

APPLICANT REQUESTS: in effect –

- correction of item 12c (Net Active Service This Period) of his DD Form 214 (Certificate of Release or Discharge from Active Duty) ending on 16 December 1983, to reflect 2 years
- an appearance before the Board in person or via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 1966/1 (Application for Enlistment - Armed Forces of the United States), 4 January 1982
- DD Form 214, 16 December 1983

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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. He was a 2-year enlistee in the United States Army and his enlistment began on 4 January 1982. The enclosed DD Form 1966/1 is supportive documentation of his term of enlistment for 2 years. His DD Form 214 reflects active service this period of 1 year, 11 months, and 13 days (19 days shy of 24 months continuous months). His separation date reflected on the DD Form 214 ending on 16 December 1983, is erroneous, in that he used accrued leave at the end of his enlistment and thus he did serve 24 continuous months.

b. He honorably served 24 continuous months. In fact, he enlisted and merged into the ██████████ Army National Guard (██████ ARNG) during "EOS" [end of active service]. His leave at the end of active service should not have penalized him from being credited

service commitment of 24 continuous months. Other leave he had taken while on active duty counted toward overall enlistment as this should have. Without 24 months reflected, his right to receive basic Department of Veterans Affairs (VA) health benefits is adversely affected. He assumes this was an administrative error.

c. His explanation of his delay in discovery is due to only finding out in 2022 that in order to be eligible for basic VA health care and benefits (he is not seeking "disability"); he must have 24 continuous months of active service. For this reason, he respectfully requests consideration by the Board of granting revision to his DD Form 214 to reflect the 24 continuous months served.

3. A review of the applicant's military records show the following:

a. On 4 January 1982, DD Form 4 (Enlistment/Reenlistment Document - Armed Forces of the United States) shows he enlisted in the Regular Army for a period of 2 years.

b. On 26 September 1983, Headquarters, 5th Infantry Division (Mechanized) and Fort Polk, LA, published Orders Number 187-70, which released the applicant from active duty and transferred him to the U.S. Army Reserve Control Group (Annual Training), effective 16 December 1983.

c. The applicant was honorably released from active duty and transfer to the USAR Control Group (Annual Training) on 16 December 1983. In pertinent part, DD Form 214 shows in:

- item 12a (Date Entered Active Duty This Period) – 4 January 1982
- item 12b (Separation Date This Period) – 16 December 1983
- item 12c (Net Active Service This Period) – 1 year, 11 months, and 13 days
- item 17 (Days Accrued Leave Paid) – "33"
- item 28 (Narrative Reason for Separation) – Completion of Required Service

d. On 30 December 1983, DD Form 4 shows he enlisted in the [REDACTED] ARNG.

4. In support of his case, the applicant provides DD Form 1966/1, which shows he enlisted in the Regular Army on 4 January 1982.

5. The ABCMR does not grant requests for the correction of records solely for making the applicant eligible for Veterans or other benefits. The Board decides every case individually based upon its merits when an applicant requests a correction to his military records.

BOARD DISCUSSION:

1. 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 record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence to show an error on the applicant's DD Form 214 in item 12c (Net Active Service This Period). Evidence shows the applicant completed 1 year 11 months and 13 days of net service this period. The Board agreed the applicant did not serve a period of 24 months. Therefore, the Board denied relief for correction of the applicant's DD Form 214 to reflect 2 years.

2. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

3. 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.

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.

3/29/2024

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.

REFERENCES:

1. Title 10, USC, 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 (AR) 15-185 (ABCMR), states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states 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. AR 635-5 (Separation Documents), in effect at the time, prescribes the separation documents which are prepared for individuals upon retirement, discharge, or release from active military service or control of the Army. It establishes standardized policy for preparing and distributing DD Form 214. Section II, paragraph 2-8 states to see Table 2-1 (DD Form 214 Preparation Instructions), which states –

a. For item 12c (Net Active Service This Period), all service entered will be less time lost under Title 10, USC, section 972 and time lost after expiration of term of service.

b. For item 17 (Days Accrued Leave Paid) to enter either the number of days of accrued leave paid or the word "none." This information is required by other Federal agencies.

4. AR 600-8-10 (Leaves and Passes), in effect at the time, prescribes policies and procedures for military personnel absences, to include military leave. Payment of accrued leave is made per Department of Defense Financial Management Regulation 7000.14-R and Title 37, USC, section 501 (Payments for Unused Accrued Leave). By law, payment of accrued leave is limited to 60 days one time during a military career.

//NOTHING FOLLOWS//