

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 2 February 2024

DOCKET NUMBER: AR20230008145

APPLICANT REQUESTS: via counsel, correction of his DD Form 214 (certificate of Release or Discharge from Active Duty) to show his service in Iraq.

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

- DD Form 149 (Application for Correction of Military Record)
- Counsel Legal Brief
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 4 October 2007
- Enlisted Record Brief
- DA Form 2627 (Record of Proceedings Under Article 15, UCMJ), 4 January 2007
- Chapter 14 Separation Approval Memorandum, 19 September 2007
- Chronological Records of Medical Care, June 2007

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. Counsel states during 2006., the applicant was deployed to Baghdad, Iraq. This deployment is not reflected in either his Enlisted Record Brief or his DD Form 214. While in Iraq, the applicant injured his shoulder. The medical records clearly indicate that on 30 June 2007, while stationed in Iraq, he sought treatment for left shoulder pain following a dislocation. The applicant was subsequently medically evacuated from Iraq to Landstuhl Regional Medical Center (LRMC) in Landstuhl, Germany, for further evaluation and treatment. On 3 December 2006 the applicant was awarded an article 15 punishment, in Iraq, for violation for UCMJ. On 12 September 2007, an administrative separation was initiated against the applicant which was approved on 19 September 2007. He was separated on 4 October 2007 for misconduct. His DD Form 214 did not reflect his deployment. The exact dates of deployment are unknown given the absence of accurate records. This is an injustice. Considering the evidence presented here, without this correction, the applicant is precluded from seeing certain benefits from the

Veterans Administration. The only remedy to this injustice is to correct the Army's error to accurately reflect the applicant's deployment.

3. Review of the applicant's service records shows:

a. He enlisted in the Regular Army on 1 September 2005, and he held military occupational specialty 13B, Cannon Crewmember.

b. Following completion of MOS training, he was assigned to A Company, 3rd Battalion, 82nd Field Artillery, 1st Cavalry Division, Fort Hood, TX.

c. The exact dates of the applicant's arrival in and departure from Kuwait/Iraq are unknown. However, selected documents show the following timelines:

(1) DA Form 2627, dated/read by the commander at Forward Operation Base Union in Iraq on 30 December 2006, for committing an indecent act upon a female under age 16. The applicant elected not to appeal on 9 January 2007.

(2) Chronological Record of Medical Care dated 29 June 2007, reflective of the applicant's visit to FOB Prosperity Troop Medical Clinic for left shoulder pain that started when he was 14 years old.

(3) Chronological Record of Medical Care dated 30 June 2007, reflective of the applicant's visit to 28th Combat Support Hospital in Baghdad for left shoulder pain that started when he was 14 years old. This medical record contains the statement "patient is being evacuated to LRMC."

(3) Chronological Record of Medical Care dated 6 July 2007, reflective of the applicant's treatment facility at Landstuhl Regional Medical Center in Germany in an outpatient basis for shoulder dislocation. This form shows the applicant was "medically evacuated from Iraq with left shoulder instability."

d. On 12 September 2007, the applicant's Rear Chain of Command, 2nd Brigade Combat Team, notified the applicant of the intent to initiate separation action against the applicant under chapter 14-12 of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) due to misconduct (commission of an indecent act against a female under age 16). The applicant acknowledged receipt and exercised his rights.

e. Following the initiation of separation action and recommendation for approval by the chain of command, the separation authority (Commander, 1st Cavalry Division)(Provisional) approved the separation action and directed the applicant's discharge with a general, under honorable conditions characterization of service.

f. The applicant was discharged from active duty on 4 October 2007. His DD Form 214 shows he was discharged under the provisions of chapter 14 of AR 635-200 with a general, under honorable conditions characterization of service. He completed 2 years, 1 month, and 4 days of active service. His DD Form 214 shows in:

- Block 12f (Foreign Service) zero foreign service
- Block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) shows the National Defense Service Medal and Army Service Ribbon
- Block 18 (Remarks) no listing of any deployments

g. The applicant's Enlisted Record Brief does not reflect any overseas service or deployment combat duty in Section I (Assignment Information).

h. Neither the applicant nor his counsel provides any Leave and Earnings Statements reflective of receipt of hostile fire pay or the dates such pay was received and the relevant country. Likewise, no awards or certificates of achievement were provided to establish when and where the applicant was deployed.

4. On 17 January 2024, DFAS verified that the applicant received hostile fire pay/imminent danger pay for service in Kuwait from 06 November 2002 to 07 July 2003 (8 months and 1 day).

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The Board determined the applicant served in Iraq/Kuwait from 6 November 2002 to 7 July 2003, a period of 8 months and 2 days, and that his DD Form 214 should be corrected to reflect this service.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 4 October 2007, to add the following entries:

- block 12f (Foreign Service) - "0000 08 02"
- block 18 (Remarks) - "SERVICE IN IRAQ/KUWAIT FROM 20021106-20030707"

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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 635-5 (Separation Documents), in effect at the time (and Army Regulation 635-8 (Separation Processing and Documents)) currently in effect, prescribes policies and procedures regarding separation documents. It states the DD Form 214 is a summary of a soldier's most recent period of continuous active duty. It provides a brief, clear cut record of active duty service at the time of release from active duty, retirement, or discharge. The regulation further stipulated:

- Block 12f, the total amount of foreign service completed during the period covered by the DD Form 214 is entered in item 12f and is obtained from the Soldier's records
- Block 13, awards, and decorations from all periods (Certificates of Achievement are not entered)
- Block 18, the "Remarks" block of the DD Form 214 is used for mandatory requirements when a separate block is not available; for an active duty Soldier deployed with his or her unit during their continuous period of active service, enter the statement "SERVICE IN (Name of County Deployed) FROM (inclusive dates for example, YYYYMMDD-YYYYMMDD)."

3. Army Regulation 600-8-22 (Military Awards) provides Department of the Army policy, criteria, and administrative instructions concerning individual military decorations, Army Good Conduct Medal, service medals and ribbons, combat and special skill badges and tabs, unit decorations, and trophies, and similar devices awarded in recognition of accomplishments. It states:

a. The Global War on Terrorism Service Medal is authorized for award to members of the Armed Forces of the United States who have participated in the Global War on Terrorism operations outside of the designated AOE on or after 11 September 2001 to a future date to be determined. All Soldiers on active duty, on or after 11 September 2001 to a date to be determined having served 30 consecutive days or 60 nonconsecutive days are authorized the Global War on Terrorism Service Medal.

b. The Global War on Terrorism Expeditionary Medal is authorized for award to members who deployed abroad for service in the Global War on Terrorism operations on or after 11 September 2001 to a date to be determined. The general AOE encompasses all foreign land, water, and air spaces outside the fifty states of the United

States and outside 200 nautical miles of the shores of the United States. Service members must be assigned, attached, or mobilized to a unit participating in designated operations for 30 consecutive days or 60 nonconsecutive days in the AOE, or meet one of the following criteria including: (1) be engaged in actual combat against the enemy and under circumstances involving grave danger of death or serious bodily injury from enemy action, regardless of time in the AOE; or (2), is killed, wounded, or injured requiring medical evacuation from the AOE while participating in the designated operation, regardless of time.)

c. The Iraq Campaign Medal is awarded to members who served in direct support of Operation Iraqi Freedom (OIF). The area of eligibility encompasses all the land area of the country of Iraq, the contiguous water area out to 12 nautical miles, and all air spaces above the land area of Iraq and above the contiguous water area out to 12 nautical miles. The Iraq Campaign Medal period of eligibility is on or after 19 March 2003 to 31 December 2011. Authorized campaigns include:

- Liberation of Iraq 9 March 2003 to 1 May 2003
- Transition of Iraq 2 May 2003 to 28 June 2004
- Iraqi Governance 29 June 2004 to 15 December 2005
- National Resolution 16 December 2005 to 9 January 2007
- Iraqi Surge 10 January 2007 to 31 December 2008
- Iraqi Sovereignty 1 January 2009 to 31 August 2010
- New Dawn 1 September 2010 to 31 December 2011

d. Service members qualified for the Global War on Terrorism Expeditionary Medal by reason of service between 24 October 2001 and 28 February 2005, in an area for which the Afghanistan Campaign Medal was subsequently authorized, will remain qualified for that medal. Upon application, any such service member may be awarded the Afghanistan Campaign Medal in lieu of the Global War on Terrorism Expeditionary Medal for such service. No service member will be entitled to both medals for the same act, achievement, or period of service.

//NOTHING FOLLOWS//