

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 March 2024

DOCKET NUMBER: AR20230008402

APPLICANT REQUESTS: correction of his re-issued DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- His service in the Delayed Entry Program (DEP) as active duty
- Persian Gulf War time service.
- Allergy Immunology Training Course at Walter Reed Army Medical Center

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

- DD Form 149 (Application for Correction of Military Record)
- Joint Services Transcript

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 the Department of Veterans Affairs told him his service time in the DEP is not active duty. This is incorrect. He enlisted in the DEP.

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

a. He enlisted in the U.S. Army Reserve (not on active duty) in the Delayed Entry Program (DEP) on 23 July 1988.

b. He was discharged from the DEP on 28 November 1988 and enlisted in the Regular Army for 2 years (active duty) on 29 November 1988. He completed the 10 week Medical Specialist Course and was awarded military occupational specialty 91A, Medical Specialist.

c. He extended his Regular Army enlistment for a period of 12 months on 3 May 1989. He was transferred to Walter Reed Army Hospital for duty as a medical specialist on 12 June 1989.

d. On 27 March 1990, the applicant's unit reported him in an absent without leave (AWOL) status. He returned to military control on 3 April 1990.

e. On 11 July 1990, court-martial charges were preferred against the applicant for:

- one specification of AWOL from 27 March to 3 April 1990
- one specification of buying stolen property (eight blank checks)
- one specification of forgery.

f. On 18 October 1990, after consulting with counsel, the applicant submitted a request for voluntary discharge for the good of the service, under the provisions of Army Regulation (AR) 635-200 (Personnel Separations), chapter 10, in lieu of trial by court-martial. He indicated he understood he could receive a discharge under other than honorable conditions.

g. On 6 November 1990, he was again reported in an AWOL status. However, he returned to military control on 29 November 1990.

h. On 27 November 1990, the separation authority approved the applicant's request for voluntary discharge and directed that he be issued a discharge under other than honorable conditions.

i. Accordingly, the applicant was discharged from active duty on 29 November 1990. His DD Form 214 shows he was discharged under the provisions of AR 635- 200, chapter 10, in lieu of trial by court-martial with an under other than honorable conditions characterization of service (Separation Code KFS and Reentry (RE) Code 4). He completed 1 year, 10 months, and 29 days of active service and he had lost time from 27 March to 4 April 1990 and from 6 to 29 November 1990. His DD Form 214 shows in:

- Block 12 (Foreign Service) zero foreign service
- Block 14 (Military Education) Medical Specialist Course, 10 weeks, 1989
- Block 18 (Remarks) Delayed Entry Program 23 July 1988 to 28 November 1988

4. On 20 December 1999, as a result of the Board's decision (AR199901943), the applicant was issued a DD Form 215 (Correction to DD Form 214) that amended his RE Code from RE-4 to RE-3.

5. On 24 August 2007, as a result of the Board's decisions (AR20060010090), the applicant was issued a second DD Form 215 that added to his Military Education, completion of Allergy/Immunology Technician Training Program, 6 weeks, 1989.

6. On 8 May 2008, as a result of the Board's decision (AR20080000883C), the applicant's original DD Form 214 was voided. He was issued a new DD Form 214 that shows he was discharged under other than honorable conditions on 29 November 1990 under the provisions of AR 635- 200, chapter 10, in lieu of trial by court-martial. He was assigned Separation Code KFS and RE-3. His DD Form 214 shows in:

- Block 12 (Foreign Service) zero foreign service
- Block 14 (Military Education) Medical Specialist Course, 10 weeks, 1989 and Allergy/Immunology Technician Training Program, 6 weeks, 1989
- Block 18 (Remarks) Delayed Entry Program 23 July 1988 to 28 November 1988

7. There is no evidence in the applicant's record that shows he served in Southwest Asia (such as a deployment order, manifest report, award reflecting his deployment, or Leave and Earnings Statements reflective of his receipt of hostile fire pay for Southwest Asia). Additionally, the applicant's name is not listed on the Gulf Roster.

8. By regulation (AR 635-5), 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. Block 12f, enter the total amount of foreign service completed during the period covered by the DD Form 214.

b. Block 18, for an active duty Soldier deployed with his or her unit during their continuous period of active service, enter "Service in (name of Country Deployed) From (inclusive dates, for example YYYYMMDD to YYYYMMDD)."

c. Block 18, DEP time that began on or after 1 January 1985 is not creditable service for pay purposes and will not be entered in item 12c. However, it is creditable service for completing the statutory mandatory service obligation and will be entered in item 18.

BOARD DISCUSSION:

1. The Board considered the applicant's requested correction of his DD Form 214 to credit his period in the Delayed Entry Program (DEP) as active duty service, and determined relief was not warranted. Army Regulation 635-5 states, DEP time that began on or after 1 January 1985 is not creditable service for pay purposes and will not be entered in item 12c (Net Active Service this Period).
2. The Board considered the applicant's requested correction of his DD Form 214 to show his foreign service in support of the Gulf War, and determined relief was not warranted. There is no evidence in the applicant's record that shows he served in Southwest Asia. Additionally, the applicant's name is not listed on the Gulf Roster.
3. The Board considered the applicant's requested correction of his DD Form 214 to show Allergy Immunology Training Course at Walter Reed Army Medical Center; however, this was previously addressed and corrected in a previous Board consideration; there is no action for the Board to take regarding this matter.

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.

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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, prescribed the separation documents that must be prepared for Soldiers upon retirement, discharge, or release from active duty service or control of the Active Army. It established standardized policy for preparing and distributing the DD Form 214. 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. The general instructions stated all available records would be used as a basis for preparation of the DD Form 214. The specific instructions for:

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

b. For an active duty Soldier deployed with his or her unit during their continuous period of active service, enter "Service in (name of Country Deployed) From (inclusive dates, for example YYYYMMDD to YYYYMMDD)."

c. DEP time that began on or after 1 January 1985 is not creditable service for pay purposes and will not be entered in item 12c. However, it is creditable service for completing the statutory mandatory service obligation and will be entered in item 18.

//NOTHING FOLLOWS//