

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 March 2024

DOCKET NUMBER: AR20230008469

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show:

- His rank/grade as specialist four (SP4)/E-4 vice private (PV2)/E-2
- His date of separation as 2 December 1976 vice 29 March 1971
- His character of service as honorable

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

- DD Form 149 (Application for Correction of Military Record)
- Personal Letter
- DD Form 214, 29 October 1970 to 20 March 1971
- Letters to and from National Personnel Records Center
- U.S. Army Reserve Discharge Orders, 2 December 1976
- U.S. Army Reserve Honorable Discharge Certificate

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 has been trying to get this issue corrected since 2019 this is his fifth attempt. In the original letter he received, dated October 2, 2019, the information on the DD Form 214 received at that time, is not accurate correct. He has previously submitted his discharge documents reflecting the date of December 2, 1976, and his Honorable Discharge Certificate, also reflecting the date of December 2, 1976. He was discharged as an SP4/E-4, as the documents show, not as a PV2/E-2. He served in a Military Police Unit in New York, from 1971 thru 1976. He is requesting a full review of all documentation, that clearly shows an error in his records has been made. He requests that he be issued a corrected DD Form 214, reflecting his correct discharge date of December 2, 1976, and his correct rank upon discharge of SP4/E-4.

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

a. He enlisted in the Army National Guard on or about 20 July 1970 in grade private/E-1.

b. He entered active duty for training (ACDUTRA) on 29 October 1970. He completed initial entry training and was awarded military occupational specialty 11C, Indirect Fire Crewman.

c. He was honorably release from ACDUTRA on 20 March 1971 to the control of his State ARNG. His DD Form 214 shows he completed 4 months and 22 days active service and 3 months and 9 days prior inactive service. His DD Form 214 also shows in:

- Block 5a (Grade, Rate or Rank) PV2
- Block 5b (Pay Grade) E-2
- Block 6 (Date of Rank) 20 November 1970

d. After his release from active duty for training, he continued his service with the State ARNG. His exact date of discharge from the ARNG is unknown as there is no discharge order or State NGB Form 22 (Report of Separation and Record of Service).

e. On 2 December 1976, Headquarters, Fifth U.S. Army, Fort Meade, MD published Orders 104-74 honorably discharging the applicant from the Ready Reserve effective 2 December 1976 with issuance of an Honorable Discharge Certificate. Both, the U.S. Army Reserve discharge order, and the Discharge Certificate list his grade as SP4.

4. There is no indication he performed any periods of active duty between the date he was released from active duty for training (20 March 1971) to the date he was ultimately discharged from the USAR (2 December 1976) that would have warranted the issuance of a separate DD Form 214.

5. On 4 April 2023, the U.S. Army Human Resources Command responded to the applicant's request for a DD Form 215, Correction to DD Form 214, Certificate of Release or Discharge from Active Duty. After review of his request and supporting documents, the requested correction cannot be processed. The rank listed on his DD Form 214 is correct as issued as Private PV2/E-2, date of rank 20 November 1970. the

6. By regulation (AR 635-5), the DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service.

- Items 5a and 5b show the active duty rank/grade held at the time of separation
- Item 6 shows total prior active service completed
- Item 11d shows the effective date of separation (from active duty)

BOARD DISCUSSION:

The applicant's contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application, all supporting documents, the evidence found within the military record, and the advisory opinion, the Board found that relief was not warranted. The Board concurs with the HRC advisory opinion that the applicants rank, and service dates are correct.

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.

█

█ █

█

█

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) establishes the policy for preparing and distributing the DD Form 214. 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, and is not intended to have any legal effect on termination of a Soldier's service. Chapter 2 states:

- Items 5a and 5b show the active duty rank/grade held at the time of separation
- Item 6 shows total prior active service completed
- Item 11d shows the effective date of separation (from active duty)

3. A DD Form 214 will be prepared for each Soldier as indicated:

a. Active Army Soldiers on termination of active duty by reason of administrative separation (including separation by reason of retirement or expiration of term of service), physical disability separation, or punitive discharge under the Uniform Code of Military Justice.

b. Reserve Component (RC) Soldiers completing 90 days or more of continuous ADT, Full-Time National Guard Duty, active duty for special work, temporary tours of active duty, or Active Guard Reserve service. Also, RC Soldiers separated for cause or physical disability regardless of the length of time served on active duty.

c. Army National Guard (ARNG) and USAR Soldiers mobilized under Title 10, U.S. Code, sections 12301(a), 12302, or 12304, and ARNG Soldiers called into Federal service under Title 10, U.S. Code, chapter 15, or section 12406, regardless of length of mobilization, when transitioned from active duty. A Soldier who reports to a mobilization station and is found unqualified for active duty will be excluded from this provision. He or she will only receive a DD Form 220 (Active Duty Report); and

d. RC Soldiers completing initial ADT that results in the award of an MOS even when the active duty period was less than 90 days. This includes completion of advanced individual training under the ARNG of the United States Alternate Training Program or USAR Split Training Program.

//NOTHING FOLLOWS//