

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 February 2024

DOCKET NUMBER: AR20230008794

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his years of service including his time as a commissioned officer.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Report of Separation from Active Duty), for the period ending 26 August 1977
- U.S. Army Reserve Discharge Order, dated 2 March 2001
- Chronological Statement of Retirement Points, dated 26 July 1997

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 needs his DD Form 214 corrected to reflect his years of service including his time as a commissioned officer for retirement years purchase with the state of New York. His copy of the form does not include all of his years, and this is the only form the State uses to calculate years available for service. He requested the update from the records office and they took 2 years to respond telling him to contact the Army since they do not correct records.
3. The applicant's complete service records are not available. An exhaustive search was conducted to locate his service records (U.S. Army Reserve (USAR) and/or Army National Guard (ARNG)) but they could not be found. The sparse service records available are sufficient to conduct a fair and impartial review of his case.
4. The applicant enlisted in the ARNG on or around 6 November 1976. He entered active duty for training on 5 June 1977 and completed infantry training.

5. He was honorably released from active duty training to the control of his State ARNG on 26 August 1977. The DD Form 214 he was issued for this period of service shows he completed 2 months and 22 days of active service.
6. On 24 August 1981, he enlisted in the USAR as a cadet and signed an Army Senior Reserve Officers' Training Corps Student Contract.
7. His oath of office and appointment memorandum as a commissioned officer are not available. However, according to his DA Form 5016, Chronological Statement of Retirement Points, he was appointed on or about 6 May 1985.
8. He entered active duty for training, as a second lieutenant, on 8 March 1986 and completed the Infantry Officer Basic Course. He was honorably released from active duty training on 30 June 1986. The DD Form 214 (Certificate of Release or Discharge from Active Duty) he was issued for this period of service shows he completed 3 months and 23 days of active service.
9. On 22 May 1990, Headquarters, Fifth United States Army, issued him a memorandum of promotion indicating his promotion to captain in the USAR, effective 29 June 1990.
10. On 6 June 1997, the U.S. Total Army Personnel Command issued him a memorandum of non-selection for promotion by a Department of the Army Reserve Components Mandatory Selection Board that convened to consider officers of his grade for promotion.
11. On 22 February 2001, the USAR Personnel Command issued Orders D-02-109848 honorably discharging him from the USAR effective 2 March 2001 by authority of Army Regulation (AR) 135-175 (Separation of Officers).
12. An advisory opinion was received from the U.S. Army Human Resources Command (HRC) on 18 September 2023 in the processing this case. An HRC advisory official stated that they have enclosed the applicant's DA Form 5016 (Chronological Statement of Retirement Points). In order to accurately make any changes to the DA Form 5016, HRC needs additional supporting documents to include NGB Form 22 (Report of Separation and Record of Service) and NGB Form 23 (ARNG Statement of Retirement Points History) from the ARNG. HRC also needs copies of the applicant's Leave and Earnings Statements while serving in the USAR if the Anniversary Year/Retirement Eligibility Year is based on the NGB Form 22 and/or NGB Form 23.
13. The applicant was provided with a copy of this advisory opinion to give him an opportunity to submit a rebuttal and/or provide the requested documents. He did not respond.

14. His DA Form 5016, dated 15 September 2023, shows he completed 10 years and 1 month of qualifying service towards non-regular retirement.

15. By regulation (AR 635-5 and AR 635-8), 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.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The Board reviewed and concurred with the U.S. Army Human Resources Command's (HRC) advisory opinion noting the applicant's request required additional information in which to make a determination. Therefore, the Board, by a preponderance of the evidence presented and without additional information provided by the applicant, determined the record does not contain an error or injustice. The Board strongly recommends to the applicant to supply the additional documents required by HRC to make a determination on his request.

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 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 [and Army Regulation 635-8 (Separation Processing and Documents)] 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 on it 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.

//NOTHING FOLLOWS//