

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 September 2024

DOCKET NUMBER: AR20230010106

APPLICANT REQUESTS: in effect, to add Military Occupational Specialty (MOS) 11B (Infantryman) to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge).

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's statement
- Orders Number 2-2, 8 January 1977
- Letter of Instruction, 27 June 1979
- DA Form 2173 (Statement of Medical Examination and Duty Status), 12 August 1979
- ARPC Form 249-E (Chronological Statement of Retirement Points), 23 June 2008

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, in effect:

a. He called Kernersville Veterans Administration Healthcare Clinic, Kernersville, NC, to ask about his left hand that was injured in the military. The personnel there told him he should seek to change his MOS on his DD Form 214 since it was so much more than what got put on his discharge. He agrees he would like to see about getting it changed. He does not have a copy of his military records to send in; however, if the Board looks at his military records it should be able to see what he did and where and when he did it.

b. The rejection letter he received has two reasons for rejection:

(1) Service connection for bilateral hearing loss. It states that he was a cook assistant on his DD Form 214 and that is correct, but it does not reflect his true MOS being 11B (Infantryman) as stated on the Section VII of his Current and Previous Assignments Document that is attached showing rank changes with MOSs 11B2H (Infantryman Instructor), 11B3H and 11B4H which shows he was an Infantry Instructor. Also refer to attached Orders Number 223-13 which clearly shows his MOS as 11B4H when he entered the Retired Reserve.

(2) Service connection for tinnitus. When in the Reserves he failed every hearing test when having scheduled physicals. On his green card in his 201 File under PULHES he always had a failed or bad rating. The unit clerks would have to submit a request to 1st Army for a hearing waiver so he could reenlist every time. Please see narrative for his duties.

c. He enlisted in the U.S. Army Reserves (USAR) on 2 December 1969 with the Concord, NC, 108th Division, 485th Regiment in MOS 94A10 (Cooks Assistant). He went to Fort Jackson, SC, on 3 March 1970 for Basic Training and OJT [on the job training] cook training. He completed basic training in Company E, 5th Battalion, 1st Basic Combat Training (BCT) Brigade. Upon graduation he was assigned to go to Company B, 5th Battalion, 1st BCT Brigade. Upon arrival at Company B for OJT cook training the first sergeant asked if he had a military driver's license, he stated yes and was informed that he was making him the company truck driver. So, he drove the company truck and worked out of the supply room during his OJT timeframe. The only time he went to the mess hall was to eat.

d. Upon release from active duty on 3 July 1970, he reported back to his Reserve Unit in Concord, NC. When he reported back to the unit the Command Sergeant Major (CSM) W_ W_ asked how he liked cook school and when he told the CSM he did not do cook training and instead was made a company truck driver the CSM was very upset. The CSM called their chain of command complaining about the active component not providing the training the applicant was supposed to receive. At that time, he was assigned to work as the Company Armorer until a decision could be made. A short time later, he was told they [the unit] had a Drill Sergeant vacancy and he was being assigned to the 108th Division Drill Sergeant Academy that was being held in High Point, NC, for a year and then attend a 2-week Annual Training session to complete the school. Before he completed Drill Sergeant School there was a Reorganization in the 108th Division that created the Third Brigade Instructor Group located in Charlotte, NC, at the 108th Division Headquarters Facility.

e. The plan called for all over strength personnel from all the Drill Sergeant Units to be transferred to the Third Brigade Unit to be trained as instructors to teach classes to Basic Training Troops at the unit's Annual Training. He was assigned to the Land Mine Warfare and the Basic Demolitions Committee. They taught classes on all U.S. Land

Mines. They performed live fire demonstrations with the claymore mine, used artillery and hand grenade simulators in training to simulate hostile environments daily. Classes on basic demolition classes required us [unit personnel] to work in pits with trainees setting up live explosives so they had hands on training when at Annual Training. As time went by, they were reorganized into different groups but always were instructors. They were also assigned to run ranges for mutual support for the North Carolina National Guard and other Reserve Units at Fort Bragg and South Carolina units at Fort Jackson, SC, to qualify members with M-16's, M-60 machine guns, M-50 machine guns, .45 caliber pistol, and shotgun ranges. Some months they would attend their regular drill weekend and perform additional mutual support weekends.

f. During all this time they were exposed to all types of weapon firing noise, live simulator noises and the noises created from explosives. For many years he was a Senior Instructor, sergeant first class (SFC)/E-7 and was retired on 12 August 1996 with a total of 27 years and 8 months.

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

a. He enlisted in the USAR on 2 December 1969 and served continuously through extensions and multiple reenlistments until he was placed on the Army of the United States Retired List.

b. On 3 March 1970, the applicant entered active duty for training.

c. On 3 July 1970, DD Form 214 shows he was honorably released from active duty and was transferred to his USAR unit. Item 23a (Specialty Number and Title) shows 94A10 (Cook). He completed 4 months net service this period.

d. His record contains multiple documents showing he held or served in MOS 11BH (Infantryman Instructor); nevertheless, his record does not show, nor contains evidence he served on continuous active duty for more than 90 days after he was released from active duty on 3 July 1970 or was awarded the 11B MOS.

4. In support of his case the applicant provides:

a. Orders Number 2-2 dated 8 January 1977, which promoted him to the rank/grade of SFC/E-7, in primary MOS 11B4H, effective 8 January 1977.

b. Letter of Instruction dated 27 June 1979, which informed his commander that the applicant was diagnosed with "fracture base left LF Metacarpal."

c. DA Form 2173 dated 12 August 1979, which shows the applicant reinjured his hand during a physical fitness test at Annual Training.

d. ARPC Form 249-E dated 23 June 2008, which shows, in relevant part, he only served on active duty for more than 90 days during the anniversary/retirement year of 2 December 1969 to 1 December 1970.

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:

After reviewing the application and all supporting documents, 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 review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined his record is absent orders or evidence that shows he was awarded the military occupational specialty (MOS) 11B (Infantryman) while on active duty during the period 3 March 1970 to 3 July 1970. The Board noted he held MOS 94A (Cook). The Board also noted his DA Form 2-1 shows he held MOS 11B with an effective date of 8 January 1977, several years after his release from active duty. The Board found no error in the applicant's record as it existed at the time of his release from active duty in 1970 and denied relief.

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, 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) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. The ABCMR is not an investigative agency.

3. AR 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents. In pertinent part:

a. Paragraph 5-1 (When to prepare the DD Form 214) states, the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clearcut record of all current active, prior active, and prior inactive duty service at the time of release from active duty (REFRAD), retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service. Except as provided in paragraph 5-2, a DD Form 214 will be prepared for Soldiers in the following categories:

(1) Regular Army Soldiers on termination of active duty because of administrative separation (including separation because of retirement or expiration of term of service), physical disability separation, or punitive discharge resulting from a court-martial.

(2) Reserve Component (RC) Soldiers completing 90 days or more days of continuous active duty.

(3) RC Soldiers separated for cause or physical disability regardless of the length of time served on active duty.

(4) Recalled retirees on active duty reverting to retired status regardless of the period of active duty service.

(5) Army National Guard (ARNG) of the United States (ARNGUS) and USAR Soldiers mobilized under Title 10, USC, sections 12301, 12302, 12304, 12304a, or 12304b and ARNG Soldiers called into Federal service under 10 USC 12301 or 32 USC 502, regardless of length of mobilization, when transitioned from active duty. Soldiers who report to a mobilization station and are found unqualified for active duty within the first 30 days will be excluded from this provision. They will receive a DD Form 220 (Active Duty Report), as specified in paragraph 9-1.

(6) RC Soldiers completing active duty that results in the award of a MOS, even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

b. Paragraph 5-6 (Rules for completing the DD Form 214) provides detailed instructions for data required in each block of the DD Form 214. In relevant part, Block 11 (Primary Specialty) states to enter the titles of all MOSs or areas of concentration (AOCs) awarded and held for at least 1 year during the current period of service and include for each MOS/AOC the number of years and months held. For time determinations, 16 or more days counts as a month. Do not count time in training (basic training, advanced individual training, Basic Officer's Leader Course, or MOS-producing school). Primary specialty MOS or AOC is awarded by Service school completion or by publication of orders awarding the MOS or AOC.

//NOTHING FOLLOWS//