

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 May 2024

DOCKET NUMBER: AR20230010541

APPLICANT REQUESTS: in effect, correction of his DD Form 214, Certificate of Release or Discharge from Active Duty, to show his foreign service in Kuwait and Iraq.

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

- DD Form 149, Application for Correction of Military Record
- DD Form 214

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, in effect, his foreign service in Kuwait and Iraq is not listed on his DD Form 214 and he never received any awards for his foreign service.
3. Having prior service in the Army National Guard, the applicant enlisted in the Regular Army on 30 October 2006.
4. His Enlisted Record Brief, 20 January 2006, shows the applicant was assigned to the 126th Truck Company (Medium), Fort Bragg, NC from 19 February 2002 until he was released from active duty on 31 March 2006. His DD Form 214 shows he was awarded or authorized:
  - Army Good Conduct Medal
  - National Defense Service Medal
  - Global War on Terrorism Service Medal
  - Army Service Ribbon

5. The applicant's performance evaluation for the period 1 February 2005 to 1 January 2006 shows the applicant served as the Senior Wheeled Vehicle Operator for the 126th Transportation Company, Fort Bragg, NC. Part IV, Rater, of the DA Form 2166-8, Noncommissioned Officer Evaluation Report, shows the applicant drove over 5000 miles and moved more than 150 tons of supplies in support of Operation Iraqi Freedom III (OIF III). In addition, he implemented a good maintenance program during OIF III that resulted in 98% operational readiness.

6. The applicant was released from active duty on 31 March 2006. He completed 4 years, 5 months, and 1 day of net active service for the period.

- Item 12f, Foreign Service, of his DD Form 214 does not show the completion of foreign service
- Item 18, Remarks, of his DD Form 214 shows the applicant was retained on active duty for 518 days, under the provisions of Title 10, U.S. Code, section 12305 (Authority of the President to suspend certain laws relating to promotion, retirement, and separation), as being essential to National Security. There are no deployments listed in Item 18 of the DD Form 214.

7. On 12 August 2020, a Defense Finance and Accounting Service (DFAS) official verified the applicant received hostile fire/imminent danger pay for service in Kuwait (Note: Per the DFAS representative the applicant may also have been in Iraq because both locations use the same Master Military Pay Account) for the following periods:

- 13 January 2003 to 8 July 2003 (5 months, 26 days)
- 22 February 2004 to 17 May 2004 (2 months, 26 days)
- 19 December 2004 to 5 December 2005 (11 months, 17 days)

9. The applicant did not provide, and the record is void of, documents showing he completed any foreign service.

10. A review of the U.S. Army Human Resources Command Army General Orders-Unit Award Index did not reveal a unit award for the 126th Transportation Company during the applicant's period of assignment.

11. Army Regulation 635-5, Separation Documents, contains guidance on the preparation of the DD Form 214. It states for:

- block 12f, Foreign Service, enter the total amount of foreign service completed during the period covered by the DD Form 214
- block 18, Remarks, for an active duty Soldier deployed with his or her unit during their continuous period of active service, the statement ‘Service in (Name of Country Deployed) From YYYYMMDD - YYYYMMDD)’

12. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

#### BOARD DISCUSSION:

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. The applicant served on active duty from 30 October 2001 to 31 March 2006. His NCO Evaluation Report for the period 1 February 2005 through 1 January 2006 shows he served as the Senior Wheeled Vehicle Operator for the 126th Transportation Company, Fort Bragg, NC. His Rater mentioned that the applicant drove over 5000 miles and moved more than 150 tons of supplies in support of Operation Iraqi Freedom III (OIF III) and implemented a good maintenance program during OIF III that resulted in 98% operational readiness. DFAS also verified that his received hostile fire/imminent danger pay for service in Kuwait and possibly Iraq for the following periods: 13 January 2003 to 8 July 2003, 22 February 2004 to 17 May 2004, and 19 December 2004 to 5 December 2005. The Board determined there is sufficient evidence to correct his DD Form 214 to reflect his deployments/foreign service as well as any related awards.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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:	:	:	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 his DD Form 214 as follows:

- Block 12f to show 1 year, 8 months, and 9 days of foreign service
- Block 13 to add award of the Iraq Campaign Medal with 3 bronze services stars
- Block 18 to add Service in Kuwait/Iraq 13 January 2003 to 8 July 2003, 22 February 2004 to 17 May 2004, and 19 December 2004 to 5 December 2005.

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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 (AR) 635-5, Separation Documents, establishes the standardized policy for preparing and distributing the DD Form 214. Chapter 2 contains guidance on the preparation of the DD Form 214. It states for

- block 12f, Foreign Service, enter the total amount of foreign service completed during the period covered by the DD Form 214
- block 18, Remarks, for an active duty Soldier deployed with his or her unit during their continuous period of active service, the statement "Service in (Name of Country Deployed) From YYYYMMDD - YYYYMMDD)"

3. AR 600-8-22, Military Awards, states:

a. The Iraq Campaign Medal is awarded to members who have served in direct support of Operation Iraqi Freedom (OIF) or Operation New Dawn. The Iraq Campaign Medal period of eligibility is on or after 19 March 2003 through 31 December 2011. 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. Only one award of this medal may be authorized for any individual. A bronze service star is authorized for wear with this medal for participation in each credited campaign. The applicant's foreign service coincides with the following campaigns:

- Liberation of Iraq (19 March 2003 to 1 May 2003)
- Transition of Iraq (2 May 2003 to 28 June 2004)
- Iraqi Governance (29 June 2004-15 December 2005)

b. Servicemembers qualified for the Global War of Terrorism Expeditionary Medal reasons of service between 19 March 2003 and 30 April 2005 in Iraq will remain qualified for the medal. Any such Soldier may be awarded the Iraq Campaign Medal in lieu of the Global War of Terrorism Expeditionary Medal for such service.

c. Under no condition will personnel receive the Iraq Campaign Medal, Global War of Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Afghanistan Campaign Medal or Armed Forces Expeditionary Medal for the same action, time period, or service.

4. AR 15-185, ABCMR, prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR will decide cases on the evidence of record. It is not an investigative body. Applicants have the burden of proof.

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