

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 April 2024

DOCKET NUMBER: AR20230010644

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) ending on 9 April 1982 as follows: show his entry date on active duty as 29 March 1976 vice 12 April 1979 and show a personal decoration for an incident at the Demilitarized Zone (DMZ).

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

- DD Form 149 (Application for Correction of Military Record)
- Personal Statement

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 his entry date is in error. His current DD Form 214 shows he only served for 3 years. It was actually 6 years [of active service] and 3 years of Reserve service. He entered active duty on 29 March 1976 and his ETS date (expiration of term of service) was in April 1982. He also requests someone award him an award/personal decoration for heroism at a time of full readiness during a combat alert at the DMZ. There was an incident at the DMZ in November 1976 that required U.S. Forces to be on full alert as American lives were in danger. He was in a cast from his ankle to his hip at the time, standing at the chow line, when his captain, despite knowing he was in a cast, told him if they went to war, he would be expected to be with his unit during any hostilities. As a young Soldier, he did not know any better and did not question his captain. He answered his captain in the affirmative and was willing to join his unit and put his life in danger. It is for this reason he demands recognition in the form of an award for this awesome, heroic gesture to go where needed, into a hot combat zone, despite being injured. He had done what no other Soldier had ever done, and he believes he should be recognized. .

3. The applicant's request for an award for heroism is premature and will not be addressed in this Record of proceedings. Army Regulation (AR) 600-8-22 (Military Awards) prescribes Department of the Army policy, criteria, and administrative instructions concerning individual and unit military awards. Paragraph 1-14 of this regulation states, except for award recommendations submitted in accordance with the provisions of Section 1130, Title 10, United States Code (10 USC 1130), which is outlined below, each recommendation for an award of a military decoration must be entered administratively into military channels within 2 years of the act, achievement, or service to be honored, except for the Medal of Honor, Distinguished Service Cross, and Distinguished Service Medal. An award recommendation will be considered to have been submitted into military channels when it has been signed by the initiating officer and endorsed by a higher official in the chain of command. However, pursuant to 10 USC 1130, a Member of Congress can request consideration of a proposal for the award or presentation of decoration (or the upgrading of a decoration), either for an individual or unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy. Based upon such review, the Secretary of the Army will make a determination as to the merit of approving the award or presentation of the decoration and other determinations necessary to comply with congressional reporting requirements under 10 USC 1130.

a. 10 USC 1130 allows the Service Secretary concerned to review a proposal for the award of, or upgrading of, a decoration that is otherwise precluded from consideration by limitations established by law or policy. To request an award under Title 10 USC 1130, you must submit a DA Form 638 (Recommendation for Award), a copy of which is enclosed.

b. The DA Form 638 should clearly identify your unit, the period of assignment, and the award being recommended. A narrative of the actions or period for which the member is requesting recognition must accompany the DA Form 638. In addition, the award request should be supported by sworn affidavits, eyewitness statements, certificates, and related documents. Corroborating evidence is best provided by commanders, leaders, and fellow Soldiers who had personal (i.e., eyewitness) knowledge of the circumstances and events relative to the request.

c. 10 USC 1130 also requires that a request of this nature be referred to the Service Secretary from a Member of Congress. Therefore, the requestor must submit their request through a Member of Congress who will send it to the United States Army Human Resources Command, ATTN: AHRC-PDP-A, 1600 Spearhead Division Avenue, Fort Knox, KY 40122. The burden and costs for researching and assembling documentation to support approval of requested awards and decorations rest with the requestor.

d. If the applicant chooses to pursue an upgrade of the award(s) requested by submitting a request under the provisions of Title 10 USC 1130, and his request is subsequently denied by the United States Army Human Resources Command, he may reapply to the ABCMR. Therefore, the Silver Star will not be discussed further in this Record of Proceedings.

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

a. The applicant enlisted in the Regular Army (RA) for 3 years on 29 March 1976. He was trained in and held military occupational specialty 11B, Infantryman.

b. He was honorably discharged from active duty on 11 April 1979 for immediate reenlistment in the Regular Army. He was issued a DD Form 214 (Report of Separation from Active Duty) that captured his 3 years and 4 days of active service, with 9 days of lost time from 29 October to 6 November 1976

c. He immediately reenlisted in the RA for 3 years in grade E-4 on 12 April 1979. He was again honorably discharged from active duty on 9 April 1982. His DD Form 214 for this period of service shows he completed 2 years, 11 months, and 28 days of active service with 3 years and 4 days of prior active service. This DD Form 214 shows in:

- Item 12a (Date Entered Active Duty (AD) This Period), 1979-04-12
- Item 12b (Separation Date This Period), 1982-04-09
- Item 12c (Net Active Service This Period), 02-11-28
- Item 12d (Total Prior Active Service), 03-00-04

4. By regulation (AR 635-5), the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. The information entered thereon reflects the conditions as they existed at the time of separation. Chapter 2 contains guidance on the preparation of the DD Form 214. It states for:

- Item 12a, enter beginning date of the continuous period of active duty for issuance of this DD Form 214, for which a DD Form 214 was not previously issued
- Item 12b, enter the Soldier's transition/separation date
- Item 12c, enter the amount of service this period, computed by subtracting item 12a from 12b (less time lost)
- Item 12d, enter the total amount of prior active military service less time lost

BOARD DISCUSSION:

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. The applicant initially enlisted in the Regular Army for 3 years on 29 March 1976 and he was honorably discharged from active duty on 11 April 1979 for immediate reenlistment in the Regular Army. He was issued a DD Form 214 that captured his 3 years and 4 days of active service, with 9 days of lost time from 29 October to 6 November 1976. He immediately reenlisted in the Regular Army on 12 April 1979, and he was again honorably discharged from active duty on 9 April 1982. His second DD Form 214, for this period of service, shows he completed 2 years, 11 months, and 28 days of active service with 3 years and 4 days of prior active service. The regulation in effect stated for item 12a, enter the beginning date of the continuous period of active duty for issuance of this DD Form 214, for which a DD Form 214 was not previously issued. Since the applicant was previously issued a DD Form 214 (for his first enlistment), the entry date reflected on his DD Form 214 is not in error or unjust.

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, 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:

- Item 12a, enter the beginning date of the continuous period of active duty for issuance of this DD Form 214, for which a DD Form 214 was not previously issued
- Item 12b, enter the Soldier's transition/separation date
- Item 12c, enter the amount of service this period, computed by subtracting item 12a from 12b (less time lost)
- Item 12d, enter the total amount of prior active military service less time lost

//NOTHING FOLLOWS//