

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2024

DOCKET NUMBER: AR20230010870

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to change his re-entry (RE) code
- a personal appearance before the Board

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

DD Form 149 (Application for Correction of Military Record)

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 feels that the military recorded an error, as he was still able to do his job efficiently with time to recover from his injuries. He feels as if he was not given ample time to recover and not given the opportunity to reclass to another military occupational specialty (MOS) to continue his military career.
3. A review of the applicant's service record shows:
  - a. He enlisted in the Regular Army on 3 January 2017.
  - b. On 22 April 2022, the Physical Evaluation Board (PEB) convened and found the applicant physically unfit and recommended that he be separated with severance pay.
  - c. On 6 June 2022, the applicant concurred with the PEB and waived a formal hearing of his case.
  - d. Orders 175-0006 issued by US Army Support Activity, Joint Base Langley-Eustis, on 24 June 2022, retired the applicant, effective 5 September 2022. The orders shows his disability rating was 40 percent.

e. On 5 September 2022, he was retired. He completed 5 years, 8 months, and 3 days of active service. His DD Form 214 shows in:

- Item 25 (Separation Authority): AR 635-40, Chapter 4
- Item 26 (Separation Code): SEA
- Item 27 (Reentry Code): 4
- Item 28 (Narrative Reason for Separation): Disability, Combat Related

4. There is no evidence the applicant applied to the Army Discharge Review Board for review of his discharge within that board's 15-year statute of limitations.

5. By regulation (AR 635-5):

a. 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.

b. For block 27 (Reentry Code) AR 601–210 determines RA and USAR reentry eligibility and provides regulatory guidance on the RE codes.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board found no evidence indicating error in the applicant's disability separation processing, noting that he concurred with the PEB's findings and apparently did request and receive an increase in his disability rating that led to his retirement instead of the originally recommended separation with severance pay. The Board noted that the RE code associated with disability retirement is RE code 4, which is shown on his DD Form 214. Based on a preponderance of the evidence, the Board determined the RE code he was assigned was 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.

12/19/2024

X

CHAIRPERSON

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. 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 begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that

applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, prescribes the transition processing function of the military personnel system, including preparation of the DD Form 214.

a. 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.

b. For block 27 (Reentry Code) AR 601-210 determines RA and USAR reentry eligibility and provides regulatory guidance on the RE codes.

(1) RE-1: Applies to: person completing their term of active service who is considered qualified to reenter the U.S. Army; Eligibility: qualified for enlistment if all other criteria are met.

(2) RE-3: Applies to: person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable; Eligibility: Ineligible unless a waiver is granted.

(3) RE-4: Applies to: person separated from last period of service with a nonwaivable disqualification. This includes anyone with a Department of the Army imposed bar to continued service in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years of active Federal service.

3. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

//NOTHING FOLLOWS//