

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 June 2024

DOCKET NUMBER: AR20230011334

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) in block 18 (Remarks): to reflect his continuous honorable active service as 19 June 1997 through 18 June 2012.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 for service ending 6 August 2021
- excerpt from Army Regulation (AR) 600-8-22 (Military Awards), chapter 4 (Good Conduct Medal and Army Reserve Components Achievement Medal)
- Executive Order Number 8809 (Good Conduct Medal)
- Executive Order Number 10444 (Amendment of Executive Order Number 8809 of 28 June 1941, establishing the Good Conduct Medal, as amended by Executive Order Number 9323 of 31 March 1943)
- Department of Veteran Affairs (VA) Character of Discharge Determination

FACTS:

1. The applicant states requests the correction of his DD Form 214 in block 18: to reflect his continuous honorable active service as 19 June 1997 through 18 June 2012, the end date of his Army Good Conduct Medal (Fifth Award). Between 3 July 2007 and the requested end date for his continuous honorable service, he deployed to Iraq twice and was awarded the Bronze Star Medal with Valor and the Army Good Conduct Medal fourth and fifth awards. Since he met the requirements outlined in Executive Orders 8809 and 9323 and in accordance with AR 600-8-22, he was awarded five Army Good Conduct Medals for honorably completing military service, meets the requirement for continuous honorable active service on his DD Form 214 to reflect 19 June 1997 through 18 June 2012. The President of the United States of America and as Commander in Chief of the Armed Forces ordered the award of the Army Good Conduct Medal for service members who had honorably completed 3-years of active Federal military service.

2. A review of the applicant's service record shows:

- a. On 19 June 1997, the applicant enlisted in the Regular Army (RA).
- b. The applicant's Enlisted Record Brief shows he was:
  - promoted to master sergeant (MSG)/E-8 effective 1 November 2011
  - reduced to private (PVT)/E-1 effective 26 April 2018
  - suspended for favorable personnel action effective 29 September 2017
  - Army Good Conduct Medal date 25 September 2015
  - Army Good Conduct Medal eligibility date 25 September 2018
  - assigned to the Personnel Control Facility (PCF) effective 12 October 2017
  - under arrest, confinement or pending military court-martial
- c. On 29 March 1999, the applicant reenlisted in the RA for 6-years.
- d. On 12 June 2000, Permanent Orders Number 164-00001, issued by Headquarters (HQs), 101st Airborne Division (Air Assault) and Fort Campbell, the applicant was awarded the Army Good Conduct Medal for the period of service 19 June 1997 through 18 June 2000.
- e. On 10 June 2003, Orders Number 161-050, issued by Bravo Detachment, 22nd Personnel Services Battalion, the applicant was awarded the Army Good Conduct Medal for the period of service for 19 June 2000 through 18 June 2003.
- f. On 29 March 2004, the applicant reenlisted in the RA for 6-years.
- g. On 11 August 2006, Orders Number 231-14, issued by HQs, 1st Squadron, 14th Cavalry, the applicant was awarded the Army Good Conduct Medal for the period of service for 20 June 2003 through 19 June 2006.
- h. On 31 March 2007, the applicant extended his enlistment in the RA for 9 months.
- i. On 4 July 2007, the applicant reenlisted in the RA for an indefinite period of service.
- j. On 3 April 2010, the applicant was awarded the Bronze Star Medal by Permanent Orders Number 093-035, issued by Task Force Marne, for exceptional meritorious service as Platoon Sergeant during Operation Iraqi Freedom during the period of 7 August 2009 through 6 August 2010.
- k. On 13 May 2010, the applicant was awarded the Army Achievement Medal by Permanent Orders Number 133-002, issued by HQs, 5th Battalion, 20th Infantry Regiment, for exceptional meritorious service while serving as the first sergeant during the period of 23 April through 18 May 2010.

l. On 30 June 2010, the applicant was awarded the Meritorious Service Medal by Permanent Orders Number 181-1, issued by HQs, I Corps, for exceptional meritorious service as vehicle commander, squad leader and platoon sergeant during the period of 9 August 2002 through 10 December 2010.

m. On 21 October 2011, Orders Number 294-9, issued by the U.S. Army Human Resources Command, the applicant was promoted to the rank/grade of MSG/E-8, effective 1 November 2011.

n. On 15 November 2012, Permanent Orders Number 320-05, issued by the 191st Infantry Brigade, Division West, the applicant was awarded the Army Good Conduct Medal (Fifth Award) for the period of service 26 September 2009 through 25 September 2012.

o. On 26 March 2013, the applicant was awarded the Bronze Star Medal by Permanent Orders Number 085-023, issued by the 101st Airborne Division (Air Assault) for exceptionally meritorious service in support of Operation Enduring Freedom during the period of 30 August 2012 through 30 May 2013.

p. On 4 June 2013, the applicant was awarded the Meritorious Service Medal by Permanent Orders Number 155-008, issued by First Army Division West for exceptionally meritorious service as the Operations Noncommissioned Officer in Charge during the period of 15 November 2010 through 15 November 2013.

q. On 23 October 2015, Permanent Orders Number 296-18, issued by HQs, 299th Brigade Engineer Battalion, the applicant was awarded the Army Good Conduct Medal (Sixth Award) for the period of 25 September 2012 through 25 September 2015.

r. On 30 September 2017, the General Court-Martial convened by order of Court-Martial Convening Orders 1, issued by HQs Fort Carson, the applicant was found guilty of charge I, specification 2 of committing a sexual act by penetrating the victim's anus with his penis by unlawful force and was sentenced to be reprimanded, reduction to the grade of E-1, forfeiture of all pay and allowances, 12-years confinement and to be dishonorably discharged which was adjudged on 30 September 2017.

s. On 2 October 2017, the applicant's duty status was changed from present for duty to confinement by military authority effective 29 September 2017. The applicant was confined in the El Paso County jail.

t. On 3 October 2017, Orders Number 276-1001, issued by HQs, U.S. Garrison, Fort Carson, the applicant was assigned to the Personnel Control Facility, Fort Sill, OK, with confinement at the U.S. Disciplinary Barracks, effective 12 October 2017. The additional instructions stated the applicant was to be escorted under guard.

u. On 25 October 2017, the applicant's duty status was changed from present for duty to confinement by military authority, effective 12 October 2017, as a result of a court martial (U.S. Disciplinary Barracks).

v. On 26 April 2018, General Court-Martial Orders Number 14, issued by HQs, Fort Carson, the applicant was arraigned for the offenses of:

(1) Charge I – found guilty:

- Specification 1, on or about 8 February 2003, the applicant committed the offense of rape near Tacoma, WA; the applicant was found not guilty
- Specification 2, on or about 23 March 2015, the applicant committed the offense of sexual act by penetrating the victim's anus with his penis, by unlawful force by crossing his thumbs over her throat, inhibiting her ability to breathe near Colorado Springs, CO; the applicant was found guilty
- Specification 3, on or about 23 March 2015, the applicant committed the sexual act by penetrating the victim's mouth with his penis, by causing bodily harm by holding her arms against her body near Colorado Springs, CO; the applicant was found not guilty
- Specification 4, on or about 23 March 2015, the applicant committed the sexual act by penetrating the victim's anus with his penis, by causing bodily harm by wrapping his arm around her throat; the specification was dismissed by the military judge because it was a lesser included offense of specification 2

(2) Charge II – found guilty, after dismissed by the military judge because it was a lesser included offense of specification 2 of charge I.

w. On 28 July 2020, General Court-Martial Orders Number 84, issued by HQs, U.S. Army Fires Center of Excellence and Fort Sill, in the applicant's General Court-Martial case the sentence of reprimand, reduction to PVT/E-1, forfeiture of all pay and allowances, confinement for 12-years and a dishonorable discharge was adjudged on 20 September 2017 as promulgated by General Court-Martial Orders Number 14, was affirmed. The adjudged forfeiture of all pay and allowances was deferred effective 12 October 2017 which was terminated on 26 April 2018. The automatic forfeiture of all pay and allowances was waived effective 12 October 2017 for a period of 6-months with the direction that those funds be paid to A- P- for the benefit of the applicant's children. Having been complied with, the dishonorable discharge was be executed.

x. On 4 August 2021, Orders Number 216-1312, issued by HQs, U.S. Army Garrison, Fort Sill, the applicant was discharged from active duty, effective 6 August 2021 upon release from confinement.

y. On 6 August 2021, the applicant was discharged from active duty under the provisions of AR 635-200 (Active Duty Enlisted Administrative Separations), Chapter 3 (Court-Martial) with a dishonorable character of service. DD Form 214 shows the applicant completed 20-years, 3-months, and 11-days of active service. It also shows in:

(1) item 18 (Remarks):

- continuous honorable active service: 19 June 1997 through 3 July 2007
- immediate reenlistments 29 March 1999 through 28 March 2004, 29 March 2004 through 3 July 2007, and 4 July 2007 through 6 August 2021

(2) Service in:

- Iraq - 1 November 2003 through 30 November 2004
- Iraq – 1 June 2006 through 30 September 2007
- Iraq – 1 August 2009 through 31 July 2010
- Afghanistan – 1 August 2012 through 30 May 2013

(3) awarded the Army Good Conduct Medal (Sixth Award)

(4) item 29 (Dates of Time Lost During This Period): 30 September 2017 through 6 August 2021

3. The applicant provides:

a. Excerpt of AR 600-8-22, Chapter 4 which states the Army Good Conduct Medal is awarded by character of service throughout a qualifying period of service of enlisted Soldiers on active duty. The record of service indicates:

- willingly complied with the demands of the military environment
- been loyal and obedient to their superiors
- faithfully supported the goals of their organization and the Army
- conducted themselves in such an exemplary manner as to distinguish them from their fellow Soldiers

A court-martial terminates a period of qualifying service; a new period begins following the completion of sentence imposed by court-martial.

b. Excerpt of Executive Order 8809 states by the authority of the President of the United States and as Commander in Chief of the Armed Forces of the United States, it was ordered the establishment of the Army Good Conduct Medal. The medal may be

awarded for exemplary behavior, efficiency and fidelity to those enlisted personnel who had honorably completed 3-years of active Federal military service.

c. Excerpt of Executive Order 10444 states by the authority of the President of the United States and as Commander in Chief of the Armed Forces of the United States, it was ordered the establishment of the Army Good Conduct Medal. The medal may be awarded for exemplary behavior, efficiency and fidelity to those enlisted personnel who had honorably completed 3-years of active Federal military service.

d. VA administrative decision for the applicant's character of discharge states for VA purposes his period of service of 19 June 1997 through 28 March 2010 was determined to be honorable. The period of 29 March 2010 through 6 August 2021 was dishonorable and is a bar to VA benefits. A review of facts and circumstances shows the applicant originally enlisted in the U. S. Army on 19 June 1997 for 2-years and 16-weeks, with an obligated period of service until 8 October 1999. On 29 March 1999, he reenlisted for 6-years, with a new obligated period of service until 28 March 2005. On 29 March 2004, he re-enlisted for 6-years, with a new obligated period of service until 28 March 2010. On 4 July 2007, he reenlisted for 13-years and 11-months, with a new obligated period of service until 3 June 2021. The applicant was discharged on 6 August 2021 with a Dishonorable Discharge. A review of the facts and circumstances found that the offenses occurred on 23 March 2015. In a General Court-Martial dated 26 April 2018 the applicant was discharged due to violations of the Uniform Code of Military Justice of rape and sexual assault.

#### 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 the period of continuous honorable service outlined on the applicant's DD Form 214 is correct. The Board found for Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except 'Honorable,' enter "Continuous Honorable Active Service From" (first day of service for which DD Form 214 was not issued) Until (date before commencement of current enlistment). 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 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.

REFERENCE:

AR 635-8 (Personnel Separations – 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. Paragraph 5-4r (Block 18 (Remarks) (2) (a) for enlisted Soldiers with more than one enlistment period during the time covered by this DD Form 214, enter "IMMEDIATE REENLISTMENTS THIS PERIOD" and specify inclusive dates for each period of reenlistment. (b), for Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "Honorable," enter "Continuous Honorable Active Service From" (first day of service for which DD Form 214 was not issued) Until (date before commencement of current enlistment). Then, enter the specific periods of reenlistment as prescribed above.

//NOTHING FOLLOWS//