

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 June 2024

DOCKET NUMBER: AR20230011379

APPLICANT REQUESTS: correction of block 18 (Remarks) of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 12 February 2019 to show his continuous honorable service as 29 July 1998 to 21 November 2005.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 458 (Charge Sheet)
- Medical Documents
- DD form 553 (Deserter/Absentee Wanted by the Armed Forces)
- DD Form 616 (Report of Return of Absentee)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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 block 18 of his DD form 214 is incorrect. His continuous honorable service is from 29 July 1998 to 21 November 2005. He deserves all of his honorable service because he was diagnosed with post traumatic stress disorder (PTSD). He still served honorably until November 2005. He was put on absent without leave (AWOL) status on 20 June 2005. He signed into Fort Polk on 29 June 2005, which is stated in his medical records, where he stayed at the Warrior Brigade until November 2005. He was arrested in November because of his AWOL status which was not lifted from 20 June 2005 when he had a car accident. His discharge was upgraded due to PTSD but his continuous honorable service was not corrected. He was not AWOL until 21 November 2005.
3. The applicant provides the following documents:

a. DD Form 458 (Charge Sheet), where he writes "I was in military control on 29 June 2005 until 21 November 2005, when he got off bus in Huston, Texas due to his PTSD." The entire document is available for the Board's review.

b. Medical document, 29 June 2005, states "[REDACTED] returned to his mother's home. [REDACTED] presented to the ED for treatment and to sign in from AWOL status. SM signed into post and is staying at [REDACTED] will contact command to appraise them of the situation and arrange transport back to Bliss." He had chronic PTSD.

c. DD Form 553 (Deserter/Absentee Wanted by the Armed Forces), 21 July 2005 wherein he circled the date in block 9a (Time of Absence) 21 June 2005 and in block 10 (Administrative Date of Desertion) 21 July 2005 and wrote "was at Fort Polk". The entire document is available for the Board's review.

d. DD Form 616 (Repot of Return of Absentee) wherein he circled the date under block g (Date Returned to Military Control) 20 November 2005 and dropped from rolls (DFR) date 21 July 2005 and wrote "was at Fort Polk sign in". The entire document is available for the Board's review.

4. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 29 July 1998. He remained in the Regular Army through immediate reenlistments.

b. DA Forms 4187 (Personnel Action) show his duty status changed from:

- Present for Duty (PDY) to AWOL on 21 June 2005
- AWOL to DFR on 21 July 2005
- DFR to PDY on 11 July 2017
- PDY to DFR on 21 July 2017
- AWOL to PDY on 23 January 2019

c. DD Form 616 (Report of Return of Absentee) shows he went AWOL 21 June 2005 and returned to military control on 20 November 2005. He was apprehended by civilian authorities.

d. DD Form 616 (Report of Return of Absentee) shows he went AWOL on 18 July 2017 [sic], was apprehended and returned to military control on 18 July 2017.

e. DD Form 458, 21 July 2017, shows he was charged with AWOL from on or about 28 June 2005 to on or about 11 July 2017 and from on or about 21 July 2017 and remained AWOL.

f. His complete separation packet is not available for the Board's consideration. On 1 February 2019 the appropriate approval authority approved his request for discharge in lieu of court-martial and issued him an under other than honorable conditions discharge.

g. DA Form 5016 (Statement of Service for Computation for Length of Service for Pay Purposes), 11 February 2019, shows he was AWOL from 21 June 2005 through 10 July 2017 a total of 4,400 lost days and from 21 July 2017 through 22 January 2019 a total of 547 lost days.

h. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged on 12 February 2019. He had completed 6 years, 11 months, and 22 days of active duty service. He had continuous honorable service from 29 July 1998 through 20 June 2005. He was discharged in lieu of trial by court-martial. He had lost time from 21 June 2005 through 10 July 2017 and 21 July 2017 through 22 January 2019.

i. On 22 February 2023, the Army Discharge Review Board informed him his discharge was upgraded from under other than honorable conditions to under honorable conditions (general).

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board concurred with the applicant's assessment that he served honorably during the period 29 July 1998 to 21 November 2005. Although periods of service are generally defined by periods of enlistment, the Board determined that, because the DD Form 214 already contains an entry regarding continuous honorable active service that is not in compliance with regulatory guidance, it would be appropriate to make an exception in this case and correct his DD Form 214 to show he had continuous honorable active service from 29 July 1998 to 21 November 2005.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3



GRANT FULL RELIEF

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GRANT PARTIAL RELIEF

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GRANT FORMAL HEARING

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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:

- Delete from item 18 – “Continuous honorable active service: 19980729-20050620”
- Add to item 18 – “Continuous honorable active service: 19980729 – 20051121”

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. Army Regulation (AR) 15-185 (Army Board for Correction of Military Records (ABCMR), prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. It states, 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.

3. 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//