

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 June 2024

DOCKET NUMBER: AR20230011638

APPLICANT REQUESTS:

- correction to his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 26 May 1981, by amending item 18 (Remarks) to read: "Continuous honorable active service from 19770406 through 19790208"
- re-issuance of his DD Form 256A (Honorable Discharge Certificate) for the period ending 8 February 1979.

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 in effect, he would like a copy of his honorable discharge or for his honorable service to be specified on his DD Form 214 for the period ending 26 May 1981. This correction should reflect his honorable service from 6 April 1977 to 8 February 1979 and the period of 9 February 1979 to 6 May 1981, which culminated in his dishonorable discharge. He served honorably for one term, so he wants to be recognized for it.
3. The applicant is authorized a re-issuance of his DD Form 256A for the period ending 8 February 1979. This action will be administratively corrected in the "Administrative Notes" section of this document without the need for Board action. Therefore, this issue will no longer be discussed in these proceedings.
4. The applicant's service record reflects the following:
 - a. DD Form 4 (Enlistment or Reenlistment Agreement-Armed Forces of The United States) shows he enlisted in the Regular Army on 6 April 1977.

b. He served in Germany from 29 November 1978 to 8 February 1979. While in Germany, Orders 39-5, discharged him on 8 February 1979 for the purpose of immediate reenlistment, with a report date of 9 February 1979.

c. He reenlisted in the Regular Army for a 6-year term on 9 February 1979.

d. He was convicted by a general court-martial that sentenced him to a dishonorable discharge.

e. His DD Form 214 shows he was discharged from active duty on 26 May 1981 pursuant to Army Regulation 635-200 (Personnel Separations Enlisted Personnel), Chapter 11-1 with a dishonorable discharge. He received a separation code of "JJD" (as a result of court-martial, other) and a reentry code of "4". He completed 10 months, and 15 days of net active service this period and he had 1 year 10 months and 3 days of prior active service with lost time from 24 December 1979 to 26 May 1991.

- Block 12a (Date Entered Active Duty This Period) 9 February 1979
- Block 12b (Separation date This Period) 26 May 1981
- Block 12c (Net Active Service) 10 months and 15 days
- Block 12d (Total Prior Active Service) 1 year, 10 months, and 15 days
- Block 18 (Remarks) does not show: his reenlistments or his continuous honorable service or completion of his first term of service

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 enlisted in the Regular Army on 6 April 1977 and reenlisted on 9 February 1979. In 1979, the Army discontinued the issuance of a separate DD Form 214 for each period of immediate reenlistment. As a result, the applicant's DD Form 214 reflects his entry date as his reenlistment date with his first enlistment shown as prior active service. His DD Form 214 correctly captures his active service as well as prior active service. However, as a matter of equity, the Board determined relief is warranted by listing his reenlistment, continuous honorable service, and completion of first term of service.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

In addition to the correction addressed in Administrative Note(s) below, 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 Block 18 of his DD Form 214 to show

- Immediate Reenlistment 9 February 1979 to 26 May 1981
- Continuous Honorable 6 April 1977 to 8 February 1979
- Member Completed First Term of Service

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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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows he is authorized a re-issuance of his DD Form 256A (Honorable Discharge Certificate) for the period ending 8 February 1979. As a result, please re-issue and provide the applicant with a copy of his DD Form 256A.

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 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, provided the authority for separation of enlisted personnel upon expiration term of service, prior to ETS, and the criteria governing the issuance of honorable, general, and undesirable discharge certificates.

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Discharge for the purpose of immediate enlistment or reenlistment. Enlisted personnel who are accepted for reenlistment as set forth below will be discharged for the convenience of the Government. Members so discharged will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the member until after reenlistment is accomplished.

3. Army Regulation 635-8 (Separation Processing and Documents), currently in effect states 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 retirement, or discharge. It states for item 18 (Remarks):

a. Mandatory entry: "SOLDIER (HAS) OR (HAS NOT) COMPLETED FIRST FULL TERM OF SERVICE." This information assists the State in determining eligibility for unemployment compensation entitlement. The following guidance will help determine which entry to use:

(1) To determine if an enlisted Soldier has completed the first full term of enlistment, refer to the enlistment contract and any extensions to those initial enlistment documents and compare the term of enlistment to the net service in block 12c of the DD Form 214. If Soldier has completed or exceeded the initial enlistment, enter "HAS." If block 12c of the DD Form 214 is less than the Soldier's commitment, enter "HAS NOT."

(2) Routinely, a Soldier should not be considered to have completed the first full term of service if separation occurs before the end of the initial contracted period of service. However, if a Soldier reenlists before the completion of that period of service, the first term of service is effectively redefined by virtue of the reenlistment contract.

(3) To determine if an officer has completed his or her commitment, refer to the initial active duty order, as appropriate, for the number of years the officer is ordered to active duty. Compare the active duty service obligation to the net service in block 12c of the DD Form 214. If an officer has met or exceeded the obligation, enter "HAS." If item 12c of the DD Form 214 is less than the officer's commitment, enter "HAS NOT"

b. Conditional entries: 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. 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.

4. Army Regulation 15-185 (Army Board for Correction of Military Records) 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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//