

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 July 2024

DOCKET NUMBER: AR20230012455

APPLICANT REQUESTS:

- issuance of a DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending on 27 August 2002
- a video/telephonic 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 the DD Form 214 does not give him all 8 years of service. He is unable to enroll in the Department of Veterans Affairs (VA) and cannot get his medical services.
3. The applicant enlisted in the U.S. Army Reserve (USAR) on 11 August 1994. He was ordered to active duty for training (ADT), and entered active duty on 16 September 1994. He completed training for award of military occupational specialty 88M (Motor Transport Operator).
4. The applicant's DD Form 214 states that he was released from ADT on 13 January 1995 and transferred back to the USAR, with an uncharacterized characterization of service. He completed 3 months and 28 days of active service. [The characterization of service for his DD Form 214 ending on 13 January 1995 will be an administrative correction and does not require action by the Board].
5. The applicant continued to service in the USAR until he was honorably discharged on 27 August 2002.

6. There is no indication he performed any periods of active duty between the date he was released from ADT (13 January 1995) to the date he was ultimately discharged from the USAR (27 August 2002) that would have warranted the issuance of a DD Form 214.

7. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active duty service at the time of release from active duty, retirement, or discharge, and is not intended to have any legal effect on termination of a Soldier's service.

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. 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 enlisted in the USAR on 11 August 1994. He entered active duty for training (ADT) from 16 September 1994 to 13 January 1995 and completed training for award of MOS 88M. He completed 3 months and 28 days of active duty. He was ultimately discharged from the USAR on 27 August 2002. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. Aside from ADT for which a DD Form 214 was issued, there is no indication he performed any periods of active duty between the date he was released from ADT (13 January 1995) to the date he was ultimately discharged from the USAR (27 August 2002) that would have warranted the issuance of a DD Form 214.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, 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.



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):

1. Current guidance states Reserve Component Soldiers completing active duty that results in the award of an MOS, even when the active duty period was less than 90 days will receive a characterization of service of honorable, unless directed otherwise by the separation approval authority.
2. As a result, amend the characterization of service shown on the applicant's DD Form 214 for the period ending 13 January 1995 from uncharacterized to honorable.

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 635-5 (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. A DD Form 214 will be prepared for each Soldier as indicated:

a. Active Army Soldiers on termination of active duty by reason of administrative separation (including separation by reason of retirement or expiration of term of service), physical disability separation, or punitive discharge under the Uniform Code of Military Justice;

b. Reserve Component (RC) Soldiers completing 90 days or more of continuous ADT, Full-Time National Guard Duty, active duty for special work, temporary tours of active duty, or Active Guard Reserve service. Also, RC Soldiers separated for cause or physical disability regardless of the length of time served on active duty;

c. Army National Guard (ARNG) and USAR Soldiers mobilized under Title 10, U.S. Code, sections 12301(a), 12302, or 12304, and ARNG Soldiers called into Federal service under Title 10, U.S. Code, chapter 15 or section 12406, regardless of length of mobilization, when transitioned from active duty. A Soldier who reports to a mobilization station and is found unqualified for active duty will be excluded from this provision. He or she will only receive a DD Form 220 (Active Duty Report); and

d. RC Soldiers completing initial ADT that results in the award of an MOS even when the active duty period was less than 90 days. This includes completion of advanced individual training under the ARNG of the United States Alternate Training Program or USAR Split Training Program.

4. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, prescribes policy and procedural guidance relating to transition management. Specifically, it references instruction related to the preparation of the DD Form 214. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active duty service at the time of release from active duty, retirement, or discharge.

a. Paragraph 5-1f states that a DD Form 214 will be prepared for Reserve Component (RC) Soldiers completing active duty that results in the award of an MOS, even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

b. Paragraph 5-6 states: "When a RC Soldier successfully completes initial active duty training the character of service is Honorable unless directed otherwise by the separation approval authority."

//NOTHING FOLLOWS//