

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 12 July 2024

DOCKET NUMBER: AR20230012924

APPLICANT REQUESTS: in effect, correction of item 11 (Primary Specialty) of his DD Form 214 (Certificate of Release or Discharge from Active Duty) ending on 2 August 2004 to show the correct years and months in specialty.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 2 August 2004

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. A review of the applicant's official records show the following:
 - a. Having had prior active duty enlisted service, from 26 May 1988 to 25 June 1998, the applicant was appointed as a Reserve warrant officer of the Army and executed his oath of office on 26 June 1998.
 - b. DA Form 1059 (Service School Academic Evaluation Report) shows he attended and completed the 881A - Marine Engineer Officer Warrant Officer Basic Course (WOBC) during the period 3 May 1999 to 25 February 2000 (9 months and 23 days).
 - c. On 29 February 2000, the U.S. Army Reserve Personnel Command withdrew military occupational specialty (MOS) 001A (branch immaterial) and awarded him primary MOS 881A, effective 29 February 2000.
 - d. On 14 June 2002, the U.S. Army Reserve Personnel Command notified the applicant and his chain of command that he was promoted to chief warrant officer two (CW2), with a date of rank of 26 June 2000.

e. On 3 February 2003, the 478th Transportation Company, published Orders M-034-0038, which ordered the applicant to active duty in support of Operation Enduring Freedom for a period of 365 days with a report date of 3 February 2003.

f. He entered active duty on 3 February 2003. He served with the 821st Transportation Battalion, Camp Arifjan, Kuwait.

g. On 10 March 2004, following an investigation, court-martial charges were preferred against the applicant. The relevant DD Form 458 (Charge Sheet) shows he was charged with:

- one specification of violating a lawful general order at or near Camp Arifjan, Kuwait, by wrongfully possessing and consuming alcohol
- one specification of wrongfully having a sexual relationship with an enlisted Soldier
- one specification of wrongfully and dishonorably distributing alcohol to and consuming alcohol with enlisted Soldiers in the maintenance platoon

h. On 10 April 2004, the applicant voluntarily tendered his resignation from the Army for the good of the service, and on 21 April 2004, the applicant's resignation was approved.

i. On 15 June 2004, the U.S. Army Human Resources Command (HRC) published Orders A-06-405682, which ordered the applicant to active duty for 6 months for Uniform Code of Military Justice processing with a report date of 17 June 2004.

j. The applicant was discharged from active duty on 2 August 2004. His DD Form 214 shows he was discharged in lieu of trial by court-martial with an under other than honorable conditions characterization of service. His DD Form 214 also shows in:

- item 4a (Grade, Rate or Rank) – CW2
- item 11 (Primary Specialty) – "881A1 00 Marine Engr Officer -- 0 YRS - 2 MOS [months]
- item 12a (Date Entered Active Duty This Period) – 15 June 2004
- item 12b (Separation Date This Period) – 2 August 2004
- item 12c (Net Active Service This Period) – 1 month and 18 days
- item 12d (Total Prior Active Service) – 8 years, 1 month, 23 days
- item 12h (Effective Date of Pay Grade) – "26 June 1998"

k. On 30 August 2004, HRC published Orders A-06-405682R, which rescinded the unexecuted portion of active duty Order A-06-405682.

l. On 14 February 2005, DD Form 215 (Correction to DD Form 214) amended the DD Form 214 ending on 2 August 2004 by changing:

- item 12a (Date Entered Active Duty This Period) to show 3 February 2003 vice 15 June 2004
- item 12c (Net Active Service This Period) to show 1 year and 6 months vice 1 month and 18 days

m. On 3 August 2005, the Army Discharge Review Board granted relief to upgrade the applicant's characterization of service to under honorable conditions (General).

n. On 5 August 2005, the applicant was reissued a DD Form 214, which upgraded his characterization of service to under honorable conditions (General). In relevant part, it shows in:

- item 4a (Grade, Rate or Rank) – CW2
- item 11 (Primary Specialty) – "881A1 00 Marine Engr Officer 0 YRS 2 MOS" (still in error)
- item 12a (Date Entered Active Duty This Period) – 3 February 2003
- item 12b (Separation Date This Period) – 2 August 2004
- item 12c (Net Active Service This Period) – 1 year and 6 months
- item 12d (Total Prior Active Service) – 8 years, 1 month, 23 days
- item 12h (Effective Date of Pay Grade) – "26 June 1998"

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was 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 applicants petition and available military records, the Board determined there is sufficient evidence to grant full relief, including the applicant's service on active duty from 3 February 2003 to 2 August 2004, a period of 1 year and 6 month. However, the applicant's DD Form 214 does not reflect the 1 year and 6 months of year in his primary specialty. Based on a preponderance of the evidence, the Board granted relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	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 Army records of the individual concerned be corrected by amending his DD Form 214, for the period ending 2 August 2004 to show in item 11 (Primary Specialty): 881A1 Marine Engineer Officer, 1 year and 6 months.

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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.

REFERENCES:

1. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within three 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 three-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. In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

3. AR 635-5 (Separation Documents), in effect at that time, prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214. In pertinent part, the specific instructions for:

a. Item 11 (Primary Specialty), state to enter from the Enlisted Record Brief/Officer Record Brief, the titles of all Military Occupational Specialty (MOS)/Area of Concentration (AOC) served for at least 1 year and include for each MOS/AOC the number of years and months served. For time determination, 16 days or more count as a month. Do not count basic training and Advance Individual Training. For warrant officers, also enter the 4-character MOS and a fifth character for SQI (if applicable or "O" if not applicable), with appropriate title and time in specialty.

b. Item 12h (Effective Date of Pay Grade), state to enter from the most recent promotion order (or reduction instrument) the effective date of promotion to the current pay grade.

//NOTHING FOLLOWS//