

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 July 2024

DOCKET NUMBER: AR20230013130

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty), ending on 7 November 1997, to reflect his:

- Reserve component service
- Deployment in support of Operation Iraqi Freedom
- Rank/grade of specialist (SPC)/E-4

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 for service ending 7 November 1997
- U.S. Army Reserve Personnel Command (USAR PERSCOM) Orders Number C-01-100098
- 63rd Regional Support Command (RSC) Orders Number 01-234-024
- USAR PERSCOM Orders Number C-04-211641
- 375th Transportation Group (Composite) Orders Number M-077-0001
- Headquarters (HQs), 81st Regional Readiness Command (RRC) Orders Number 05-146-00153
- U.S. Army Human Resources Command (HRC) letter

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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, his service record was never updated after his Regular Army enlistment. His DD Form 214 currently does not reflect that he served in the USAR from January 2001 through 26 May 2005 during which time he served an active-duty tour in support of Operation Iraqi Freedom, and he was promoted to and separated in the rank/grade of SPC/E-4.

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

- a. On 8 November 1994, the applicant enlisted in the Regular Army.
- b. The applicant's DA Form 2-1 (Personnel Qualification Record) shows he was advanced to:
 - private (PV2)/E-2, effective 8 May 1995
 - private first class (PFC)/E-3, effective 1 April 1997
- c. On 8 November 1994, Orders Number 216-2, issued by the Military Entrance Processing Station, the applicant was ordered to report to the 120th Adjutant General Battalion (Reception), Fort Jackson, SC, effective 8 November 1994.
- d. On 4 April 1995, Orders Number 094-00247, issued by the U.S. Army Transportation Center, the applicant was awarded military occupational specialty 88H (Cargo Specialist), effective 5 May 1995.
- e. On 1 May 1995, Orders Number 121-00112, issued by the U.S. Army Transportation Center, the applicant was assigned to the 155th Transportation Company, Fort Eustis, Virginia, effective 4 May 1995.
- f. The applicant's service record was void of any documentation of his advancement to the rank of PV2/E-2. DA Form 4187 (Personnel Action) shows the applicant was advanced to the rank of PFC/E-3, effective on with a date of rank of 8 November 1995.
- g. On 6 January 1997, the Commander, U.S. Army Transportation Center and Fort Eustis directed the General Officer Memorandum of Reprimand which the applicant received on 6 November 1996 for driving while intoxicated to be filed in his Official Military Performance Fiche.
- h. The applicant's service record was void of any evidence of a reduction in rank to PV2/E-2. DA Form 4187 shows the applicant was advanced to the rank of PFC/E-3, effective on with a date of rank of 1 April 1997.
- i. On 16 October 1997, Orders Number 289-0008, issued by the U.S. Army Transportation Center, the applicant was assigned to the U.S. Army Transition Center, effective 7 November 1997, for release from active duty.
- j. On 7 November 1997, the applicant was honorably released from active duty for completion of his required active service and assigned to the USAR Control Group (Reinforcement). DD Form 214 shows the applicant completed 3-years of active service. It also shows in blocks:
 - 4a (Grade, Rate or Rank): private (PV1)

- 4b (Pay Grade): E1
- 6 (Reserve Obligation Termination Date): 27 July 2002
- 12h (Effective Date of Pay Grade): 3 September 1997
- 18 (Remarks): Block 6, period of delayed entry program: 28 July 1994 through 7 November 1994

k. On 3 January 2001, Orders Number C-01-100098, issued by USAR PERSCOM, the applicant was assigned to a USAR Troop Program Unit (TPU), effective 3 January 2001 in the rank/grade of PVT/E-1 with the date of rank of 3 September 1997 and an expiration term of service of 7 November 2002.

l. On 22 August 2001, Orders Number 01-234-024, issued by the 63rd RSC, the applicant was assigned to the USAR Control Group (Reinforcement) in the rank/grade of PVT/E-1 for completion of his contractual obligation, effective 22 August 2001.

m. On 26 April 2002, Orders Number C-04-211641, issued by the USAR PERSCOM, the applicant was assigned to a USAR TPU, effective 26 April 2002 in the rank/grade of PVT/E-1 with the date of rank of 3 September 1997 and an expiration term of service of 7 November 2002.

n. DA Form 1059 (Service School Academic Evaluation Report) shows the applicant achieved course standards for the Motor Transport Operator (88M) Course during the period of 10 through 30 August 2002 in the rank/grade of PVT/E-1.

o. The applicant's service record is void of any evidence/documentation of advancements in rank from PVT/E1 through SPC/E-4.

p. On 18 March 2003, Orders Number M-077-0001, issued by the 375th Transportation Group (Composite), the applicant was ordered to active duty in support of Operation Enduring Freedom, effective 18 March 2003, for a period of 365-days in the rank/grade of SPC/E-4 with the date of rank of 1 September 2002. The applicant's service record is void of a DD Form 214 for this period of active-duty service.

q. On 26 May 2005, Orders Number 05-146-00153, issued by HQs, 81st RRC, the applicant was honorably discharged from the USAR, effective 26 May 2005, in the rank/grade of SPC/E-4. The additional instructions stated the applicant was held beyond normal discharge date through no fault of his own.

r. The applicant's DA Form 5016 (Chronological Statement of Retirement Points) shows the applicant was in the USAR effective 8 November 1997. He only obtained 15 membership points each Retirement Year Ending (RYE) on 7 November from 1998 through 7 November 2001. The applicant obtained in RYE:

- 7 November 2002 – 28 Inactive Duty Training (IDT) points, 15 membership points and 42 active-duty points, for a total of 85 creditable retirement points
- 7 November 2003 – 8 IDT points, 15 membership points, and 235 active-duty points, for a total of 258 creditable retirement points
- 7 November 2004 – zero IDT points, 15 membership points, and 23 active-duty points, for a total of 38 creditable retirement points
- 26 May 2005 – zero IDT points, 8 membership points, and zero active-duty points, for a total of 8 creditable retirement points

s. The applicant's retirement points detail from Soldier Management Services - Web Portal (SMS Web) shows the applicant received active-duty points beginning on 18 March 2003 through 30 November 2003 for attendance at active duty for training.

4. The Defense Finance and Accounting Service (DFAS) was contacted on 10 and 17 July 2024 to verify if the applicant was receiving hazardous duty pay, imminent danger pay, or advanced to the rank/grade of SPC/E-4. DFAS did not respond. Likewise, his record is void of awards presented to him for providing support during Operation Iraqi Freedom.

5. The applicant provides an HRC letter denying his request for the correction of his DD Form 214. He was informed his request could not be granted, for historical purposes, the Army has an interest in maintaining the accuracy of its records. The information contained therein should reflect the conditions and circumstances that existed at the time the records were created and under which the military service was performed. He was referred to the Army Review Boards Agency.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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 applicant's petition and available military records, the Board determined that the DD Form 214 issued in 1997 accurately reflects the conditions and circumstances of his Regular Army service at the time of separation. The DD Form 214 is intended to document a Soldier's most recent period of continuous active duty, and the requested changes pertain to a later period of service not covered by the 1997 document. The applicant was released from active duty in the rank/grade of PV1/E-1, and there is no basis to amend that record.

2. However, the Board acknowledged that the applicant subsequently served in the Reserve component and was mobilized under orders dated 18 March 2003 in support of

Operation Enduring Freedom (OEF) for a period of 365 days. While the applicant contends his deployment was in support of OIF, the Board notes that OIF officially commenced in March 2003 and his orders specifically cite OEF. Based on Defense Finance and Accounting Service (DFAS) Military Pay records, the applicant was deployed to Kuwait from 5 April 2003 to 17 March 2005. This period of active-duty service approximately eight months was not captured on his existing DD Form 214. The Board determined that a separate DD Form 214 should have been issued to document this later period of active duty, which would appropriately reflect his Reserve component service, deployment, and rank at the time.

3. The Board found sufficient evidence to grant partial relief to generation of a new DD Form 214 to reflect the applicant's active-duty service from FY03–FY05, including his deployment to Kuwait and rank/grade of SPC/E-4 during that period. However, the Board denied the request to retroactively change the existing DD Form 214 from 1997, as it accurately reflects his service at that time. The Board also directs that the applicant's mobilization orders be reviewed to ensure accuracy and proper documentation of his deployment and service status. Based on this, the Board granted partial relief.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by issuance of a DD Form 214 to show his in item

- Item 4a (Grade Rate or Rank) SPC
- Item 4b (Pay Grade): E-4
- Item 12a (Date Entered AD This Period) 2003 03 18
- Item 12b (Separation Date This Period) 2005 03 18
- Item 12c (Net Active Service This Period): 2 years 00 Months and 00 days
- Item 12 (Total Prior Active Service): 00 years 08 months 00 days
- Item 12f (Foreign Service): 1 year 11 months and 13 days
- Item 12h (Effective Date of Pay Grade): 1997 09 03
- Item 18 (Remarks): SERVICE IN KUWAIT FROM 20030405 - 20050317

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to amendment of his 1997 DD Form 214.

X //SIGNED//

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, USC, 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) 635-5 (Personnel Separations – Separation Documents) in effect at the 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 (Certificate of Release or Discharge from Active Duty).

a. Paragraph 2-1 (Preparing 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, clearcut record of active-duty service at the time of release from active duty, retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service. Subparagraph a (4) ARNGUS and USAR Soldiers mobilized under sections 12301(a), 12302, or 12304, Title 10, USC, and ARNG Soldiers called into Federal service under chapter 15, or section 12406, Title 10, USC, 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).

b. Paragraph 2-4h (4) Grade, Rate, or Rank. Enter active-duty grade or rank and pay grade at time of separation from Enlisted Record Brief.

c. Paragraph 2-4h (18) (f) For a Reserve Soldier ordered to active duty and deployed to a foreign country, enter the following three statements in succession. (However, for an active duty Soldier deployed with his or her unit during their continuous period of active service, enter only the second statement.)

- "ORDERED TO ACTIVE DUTY IN SUPPORT OF (OPERATION NAME) PER 10 USC (applicable section)."
- "SERVICE IN (NAME OF COUNTRY DEPLOYED) FROM (inclusive dates for example, YYYYMMDD - YYYYMMDD)."
- "SOLDIER COMPLETED PERIOD FOR WHICH ORDERED TO ACTIVE DUTY FOR PURPOSE OF POST SERVICE BENEFITS AND ENTITLEMENTS."

d. Paragraph 2-7 (Issuing and reissuing DD Form 214), a. Once a DD Form 214 has been issued, do not reissue except for the following reasons:

- When directed by proper appellate authority, Executive Order, or by the Secretary of the Army
- When it is determined that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215 or if the correction would require issuance of more than two DD Forms 215
- When two DD Forms 215 have been issued and an additional correction is required

b. When a DD Form 214 is administratively issued or reissued, enter that fact and the date of such action on the DD Form 214, item 18 (Remarks); unless the appellate

authority, executive order or Secretarial directive specifies otherwise. c. Do not issue DD Form 214 to replace record copies or DD Forms 214 lost by Soldiers. If no DD Form 214 is available, issue a statement of service or transcript of military record.

3. AR 15-185 (ABCMR) states in paragraph 2-2, the ABCMR will decide cases on the evidence of record. It is not an investigative body. Paragraph 2-9 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.

//NOTHING FOLLOWS//