

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 June 2024

DOCKET NUMBER: AR20230013275

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge), ending on 27 June 2003, to reflect:

- Award of the Combat Action Badge
- Deployment to Afghanistan during the period of 1 January through 1 June 2003
- Award of the Afghanistan Campaign Medal
- The Airborne course

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

- DD Form 149 (Application for Correction of Military Record)
- The Commonwealth of Massachusetts (MA) County of Hampden letter
- Leave and Earnings Statements (LES) for October 2001 through June 2003

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, he requests the correction of his DD Form 214 to reflect he was awarded the Combat Action Badge, deployed to Afghanistan during the period of 1 January through 1 June 2003, award of the Afghanistan Campaign Medal, and completion of the Airborne course. He provided his pay records to show his pay increased when he started receiving Parachute Pay in March 2003 after his completion of the Airborne course which he attended at Fort Moore (formerly Benning) in February 2003. His pay records also show he received Imminent Danger Pay and Demolition Pay which began in February 2003.

When he was separated from active duty, he was not in the right frame of mind to notice deficiencies with his DD Form 214. After his incarceration during the period of 8 June through 16 October 2017, he was accepted into the Veteran's Treatment court program. In 2023, he was once again incarcerated during the period of 13 through 19 January

2023, he was then placed on probation and is currently residing at Soldier On and is presently working with E-G-, a section 6 representative.

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

a. On 9 October 2001, the applicant enlisted in the Regular Army.

b. The applicant's Enlisted Record Brief shows he was awarded the Special Qualification Identifier of "P" (Parachutist). The applicant was awarded the National Defense Service Medal, his overseas service was blank, and a suspension of favorable personnel action was initiated on 1 May 2003. He was assigned to Alpha Company, 307th Engineer Battalion, 82nd Airborne Division, effective 14 March 2002.

c. On 5 May 2003, the applicant was counseled by his squad leader regarding the wrongful use and/or possession of a controlled substance of marijuana and failure to obey an order or regulation (General Order). In response to information received from a peer of the applicant, his person/property was searched, and the controlled substance believed to be marijuana was found in his uniform cargo pocket, along with other paraphernalia. It was also reported the applicant used the controlled substance on and off duty and purchased the controlled substance from local children. The applicant was being recommended for the maximum possible punishment under the Uniform Code of Military Justice (UCMJ). The applicant was directed to undergo a urinalysis and to attend drug and alcohol counseling.

d. On 12 May 2003, a Criminal Investigation Division (CID) report was provided to the applicant's commander which stated an investigation was conducted by the applicant's commander regarding the report the applicant had been smoking hashish. On 7 May 2003, the commander provided the statements he obtained and any evidence he retrieved during the investigation to the CID agent. A field test of the evidence was conducted which was positive for tetrahydrocannabinol, the active ingredient in hashish. The investigation concluded there was probable cause to believe the applicant committed the offense of wrongful possession and use of hashish while at Forward Observation Base Asadabad, Afghanistan.

e. On 24 May 2003, the applicant accepted non-judicial punishment under the provisions of Article 15, UCMJ, for wrongful possession of drug paraphernalia, wrongful use of hashish while receiving special pay and wrongful possession of hashish while receiving special pay. His punishment included reduction to the rank/grade of private (PVT)/E-1 and forfeiture of \$575.00 per month for 2-months. The applicant chose not to appeal the proceedings of the Article 15.

f. On 30 May 2003:

(1) The commander of Alpha Company, 307th Engineer Battalion, Logistical Task Force 307, Kandahar Airfield, Afghanistan initiated the separation of the applicant under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), paragraph 14-12c (Commission of a serious offense).

(2) The applicant's commander notified him that separation proceedings were initiated under the provisions of AR 635-200, paragraph 14-12c for the misconduct of wrongful possession of drug paraphernalia, abuse and possession of illegal drugs while in support of Operation Enduring Freedom. The commander was recommending his separation from active duty with a general under honorable conditions character of service.

(3) The applicant acknowledged the notification of separation before his expiration term of service. He understood he had the right to counsel, and he may submit statements on his own behalf. The applicant waived his right to counsel and did not wish to submit statements on his own behalf.

g. On 2 June 2003:

(1) The applicant's intermediate commander recommended he be separated from active duty for the commission of a serious offense, and he receive a general under honorable conditions character of service.

(2) The separation authority directed the applicant be separated from active duty under the provisions of AR 635-200, paragraph 14-12c and he be issued a general under honorable conditions discharge.

h. On 13 June 2003, Orders Number 164-0293, issued by Headquarters, 82nd Airborne Division, Fort Bragg, NC, the applicant was assigned to the U.S. Army transition point for transition processing, effective 16 June 2003.

i. On 27 June 2003, the applicant was discharged from active duty under the provisions of AR 635-200, paragraph 14-12c for misconduct. DD Form 214 shows the applicant completed 1-year, 8-months, and 19-days of active service. It also shows in items:

- 12f (Foreign Service): 0-years, 0-months and 0-days
- 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): National Defense Service Medal, Army Service Ribbon, and Expert Marksmanship Qualification Badge with Rifle Bar
- 14 (Military Education): None
- 18 (Remarks): does not reflect any overseas service or imminent danger pay

j. On 14 November 2022, the U.S. Army Human Resources Command notified the applicant his request for a DD Form 215 (Correction to DD Form 214, Certificate of Release or Discharge from Active Duty) was returned without action due to insufficient information to issue a DD Form 215. He was referred to the Defense Finance and Accounting Service to request his LES which could shows the time period which he served overseas. Once he received the LES and other military documents to support his request, he could resubmit his request for a DD Form 215 for the correction of item 12f on the DD Form 214.

4. The applicant provides:

a. Letter from the Commonwealth of MA County of Hampden dated 4 August 2023 from the Classification Coordinator who verifies the applicant was incarcerated during the periods of 8 June through 16 October 2017 and 13 through 19 January 2023.

b. LES showing he received Parachute Pay for the period beginning 1 through 31 March 2002 through June 2003. Additionally, he started receiving imminent danger pay for the period 1 January through June 2003. The LES beginning January 2003 shows combat zone hazardous fire pay was started on 1 January 2003.

c. The remainder of the applicant's LES statements are not pertinent to the application.

BOARD DISCUSSION:

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.

a. Combat Action Badge: Deny. The applicant does not provide, and his records do not contain permanent orders that show he was awarded this badge. If the applicant can provide the permanent order, he may resubmit his application to this Board for reconsideration of its addition to his DD Form 214.

b. Airborne Course: Deny. The applicant was assigned to a position code "P" in unit of the 82nd Airborne Division and he provides evidence of receipt of Parachute Pay. However, he does not provide a certificate or a diploma of confirming completion of the Basic Parachute Course and the date of such completion. If the applicant can provide such diploma/certificate, he may resubmit his application to this Board for reconsideration of its addition to his DD Form 214.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

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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 NOTES:

1. Reference the enclosed request for correction of military records from the subject individual to correct his DD Form 214 for the period ending 27 June 2003, by adding the following in:

- Item 13; Afghanistan Campaign Medal.
- Item 18; Service in Afghanistan from 20030120 – 20030606.
- Item 12f (Foreign Service) 4 months and 18 days.

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- Defense Finance and Accounting Service email
- Master Military Pay Account

3. Please correct the applicant's DD Form 214 by amending it as shown in paragraph 1a and b above. Provide the applicant a copy of the correction, and as applicable the medal. Please ensure that the correction is recorded in the applicant's official military personnel record.

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. AR 635-5 (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 2-3 (Source documents), subparagraph a, approval documentation must be present for transition processing to occur. All source documents should be in place to complete the DD Form 214WS. If approval documentation is not present in a Soldier's records, action will be coordinated with the necessary activity (personnel service division, Assistant Chief of Staff for Personnel/Adjutant General or chain of command) for proper source documents. Use the following documents when preparing a DD Form 214WS (Worksheet):

- Enlisted Record Brief (ERB) (computer generated)
- Separation approval authority documentation, if applicable
- Separation order
- Any other document authorized for filing in the Official Military Personnel File

b. Paragraph 2-4 h, the following provides detailed instructions and source document(s) for completing each block of the DD Form 214.

(1) Item 12 (Record of Service), (f) Foreign Service. From the ERB, enter the total amount of foreign service completed during the period covered in block 12c.

(2) Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized), list awards and decorations for all periods of service in the priority sequence specified in AR 600-8-22. Each entry will be verified by the Soldier's records.

(3) Item 14 (Military Education), from the ERB, list formal in-service (full-time attendance) training courses successfully completed during the period of service covered by the DD Form 214. Include title, length in weeks, and year completed. This information is to assist the Soldier in job placement and counseling; therefore, do not list training courses for combat skills.

(4) Item 18 (Remarks), use this block for Headquarters Department of the Army mandatory requirements when a separate block is not available, and as a continuation for entries in blocks 11, 13, and 14. (a) Mandatory entry: "DATA HEREIN SUBJECT TO COMPUTER MATCHING WITHIN DOD OR WITH OTHER AGENCIES FOR VERIFICATION PURPOSES AND DETERMINING ELIGIBILITY OR COMPLIANCE FOR FEDERAL BENEFITS." (b) Mandatory entry: "SOLDIER (HAS) (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. Routinely, a Soldier should not be considered to have completed the first full term of active service if separation occurs before the end of the initial contracted period of service. (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.) (1) "ORDERED TO ACTIVE DUTY IN SUPPORT OF (OPERATION NAME) PER 10 USC (applicable section)." (2) "SERVICE IN (NAME OF COUNTRY DEPLOYED) FROM (inclusive dates for example, YYYYMMDD - YYYYMMDD)."

3. AR 600-8-22 (Military Awards), prescribes Department of the Army (DA) policy, criteria, and procedures for individual and unit military awards and foreign decorations and badges.

a. Paragraph 2-16 (Afghanistan Campaign Medal), a. The Afghanistan Campaign Medal is authorized by Public Law (PL) 108-234, 28 May 2004, and Executive Order (EO) 13363, 29 November 2004. PL 109-163, 6 January 2006, amended the beginning date for Operation Enduring Freedom and the date of eligibility for the Afghanistan Campaign Medal to 11 September 2001. Individuals authorized the Afghanistan Campaign Medal must have served in direct support of Operation Enduring Freedom from 11 September 2001 through 31 December 2014 and Operation Freedom's Sentinel from 1 January 2015 through 31 August 2021. The Area of Eligibility encompasses all land area of the country of Afghanistan and all airspaces above the land. Servicemembers qualified for the Global War on Terrorism Expeditionary Medal by reasons of service between 11 September 2001 and 30 April 2005 in Afghanistan will

remain qualified for the medal. Any such Soldier may be awarded the Afghanistan Campaign Medal in lieu of the Global War on Terrorism Expeditionary Medal for such service.

b. The Combat Action Badge, a. On 2 May 2005, the Chief of Staff of the Army approved the creation of the Combat Action Badge to provide special recognition to Soldiers who personally engaged or are engaged by the enemy. The Combat Action Badge is intended to serve as a companion to the Combat Infantryman Badge and Combat Medical Badge to recognize the greatly expanded role of non-infantry Soldiers in active ground combat. A Soldier must be personally present and under hostile fire while performing satisfactorily in accordance with the prescribed rules of engagement in an area where hostile fire pay or imminent danger pay is authorized. A Soldier must also be executing an offensive or defensive act while participating in combat operations, engaging, or being engaged by the enemy. A Soldier must be performing their assigned duties associated with the unit's combat mission in an area where hostile fire pay or imminent danger pay is authorized. The requirement for hostile fire pay or imminent danger pay does not apply to cases determined to be eligible under the conditions described in paragraph 3–8c. Requests for retroactive award of the Combat Action Badge will not be entertained except where evidence of injustice is presented. Soldiers redeployed more than 12 months or reassigned to a command other than their wartime command must submit their request through command channels to Commanding General, U.S. Army Human Resources Command, 1600 Spearhead Division Avenue, Fort Knox, KY 40122-5408, for processing. Eligible veterans and retirees may submit a request directly to the Commanding General, U.S. Army Human Resources Command at the same address.

d. Paragraph 8-16 (Parachutist Badge), k. To be eligible for award of the Basic Parachutist Badge, an individual must have satisfactorily completed the Airborne course conducted under the auspices of the U.S. Army Infantry School or have participated in at least one combat parachute jump as follows:

- member of an organized force carrying out an assigned tactical mission for which the unit was credited with an airborne assault landing by the theater commander
- while engaged in military operations involving conflict with an opposing foreign force
- while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party

//NOTHING FOLLOWS//