

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 May 2024

DOCKET NUMBER: AR20230013299

APPLICANT REQUESTS: in effect, issuance of a DD Form 214 (Certificate of Release or Discharge from Active Duty).

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

- DD Form 149 (Application for Correction of Military Record)
- Letter, Department of Veterans Affairs, 19 December 2022
- Letter, National Personnel Records Center, 3 January 2023
- Letter, U.S. Army Human Resources Command, 6 January 2023
- Letter, Office of the Chief of Legislative Liaison, 15 February 2023
- Letter, U.S. Army Human Resources Command, 29 June 2023

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 Department of the Army does not have his military records or DD Form 214 which he needs to apply for Department of Veterans Affairs benefits.
3. The applicant's Official Military Personnel File contains the following documents:
  - a. DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States), which shows a date of enlistment into the U.S. Army Reserve as 9 August 2006. He was to report to the Los Angeles, CA, Military Entrance Processing Station (MEPS) on 5 June 2007, for enlistment into the Regular Army for a period of 4 years and 19 weeks.
  - b. DD Form 2366 (Montgomery GI Bill (MGIB) Act of 1984 – Basic Enrollment), which shows he acknowledged he would be automatically enrolled in the MGIB, and he must complete 36 months of active duty service before he would be entitled to the current rate of monthly benefits. He must also receive an honorable discharge.

c. DD Form 1966 (Record of Military Processing – Armed Forces of the United States), dated 22 December 2006, which show his date of Delayed Entry Program Enlistment as 22 December 2006 with a projected active duty date of 6 March 2007.

d. DD Form 2808 (Report of Medical Examination) performed at the Los Angeles, CA, MEPS for enlistment into the Regular Army. Block 74a (Examinee/Applicant) indicates the applicant was not qualified for service. The applicant signed the document on 6 March 2007.

e. A letter to the applicant from the Chief Medical Officer, Los Angeles MEPS, dated 24 April 2007, notifying him that as a result of his military entrance medical examination he was found medically disqualified for entry into the Armed Forces of the United States.

f. DA Form 3286 (Statement for Enlistment United States Army Enlistment Program, U.S. Army Delayed Enlistment Program) dated 30 April 2007, authenticated by the applicant and a witnessing official.

4. Information resident in the Soldier Management System, U.S. Army Human Resources Command, states the applicant was a non-prior service accession from civilian life on 9 August 2006. On 14 May 2007, there is evidence of voluntary transfer request and on 15 January 2008, the applicant was involuntarily discharged due to erroneous entry in the active Army.

5. The applicant provided various letters which show his attempts to obtain a DD Form 214 or Statement of Service. The U.S. Army Human Resources Command informed him that his record is incomplete and did not contain sufficient documentation to issue a Statement of Service. He further provides a letter from the Department of Veterans Affairs dated 19 December 2022, which certified he is entitled to benefits for an approved program of education or training under the Post-9/11 GI Bill. They based their decision on a service begin date of 14 May 2007 with an end date of 15 January 2008.

6. 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.

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. The evidence shows the applicant enlisted in the U.S. Army Reserve on 9 August 2006. He was to report to the Los Angeles, CA, Military Entrance Processing Station (MEPS) on 5 June 2007, for enlistment into the Regular Army for a period of 4 years and 19 weeks. However, he was found disqualified for service. The Board did not find evidence of his entry and service on active duty. The DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. Based on available evidence, the Board determined relief is not warranted.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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.

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 635-5 (Separation Documents), then in effect, established the standardized policy for preparing and distributing the DD Form 214. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service. It is important that information entered on the form should be complete and accurate. 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.
3. Chapter 2 of Army Regulation 635-5 contains guidance on the preparation of the DD Form 214. Paragraph 2-7 of Army Regulation 635-5 states that a DD Form 214 is not issued 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.
4. The presumption of administrative regularity in the conduct of governmental affairs can be applied to any review unless there is substantial credible evidence to rebut the presumption. In this instance, the "presumption of regularity" is based on Army Regulation 15-185, which states the ABCMR begins its consideration of each case with the presumption of administrative regularity and that the applicant has the burden of proving an error or injustice by a preponderance of the evidence.
5. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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//