

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 August 2024

DOCKET NUMBER: AR20230013724

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his deployment to Kuwait from August 1996 to December 1996.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored Statement
- DA Form 638 (Recommendation for Award)

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, in effect, he served in the Army from June 1995 to June 1999. During that time, he was assigned to Company A, 91st Engineer Battalion, 1st Cavalry Division, Fort Hood, TX. The command requested volunteers to deploy with the 8th Engineer Battalion to Operation Intrinsic Action Task Force 1-9. He volunteered and was deployed to Kuwait from August 1996 to December 1996. During his deployment, he received orders for a permanent change of station to the 44th Engineer Battalion at Camp Howze, Korea. Upon return, from Kuwait, he was sent back to his unit, Company A, 91st Engineer Battalion, 1st Cavalry Division. At the time, he was just a Soldier following orders. He did not receive any paperwork at the time. However, he does have a DA Form 638 which awarded him the Army Achievement Medal which states he deployed with the 8th Engineer Battalion, 1st Cavalry Division, to Operation Intrinsic Action.
3. The applicant enlisted in the Regular Army on 21 June 1995. He served in military occupational specialty 12B (Combat Engineer).

4. The applicant's DA Form 2-1 (Personnel Qualification Record) shows he served in Korea from 28 February 1997 to 26 February 1998. There is no listing of service in Kuwait.

5. On 20 June 1999, he was honorably released from active duty upon the completion of his required active service. The DD Form 214 he was issued shows he completed 4 years of active service. Of which 11 months and 29 days foreign service. The form further shows in:

- Block 12f (Foreign Service) 11 months and 29 days
- Block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) he was awarded or authorized the:
 - Army Commendation Medal
 - Army Achievement Medal (3rd Award)
 - Joint Meritorious Unit Award
 - Army Good Conduct Medal
 - National Defense Service Medal
 - Army Lapel Button
 - Army Service Ribbon
 - Overseas Service Ribbon
 - Expert Marksmanship Qualification Badge with Rifle and Grenade bars
 - Parachutist Badge
 - Driver and Mechanic Badge with Driver-T bar
- Block 18 (Remarks): no listing of any deployments

6. The applicant provides a DA Form 638 dated 19 December 1996. This form shows:

a. The platoon leader A Company, 91st Engineer Battalion, 1st Cavalry Division recommended the applicant for award of the Army Achievement Medal due to his permanent change of station. The period of service is listed as 1 December 1995 to 9 March 1997.

b. Achievement #2 states, in effect, the applicant volunteered to deploy with the 8th Engineer Battalion to Operation Intrinsic Action from August 1996 to December 1996. While deployed he was a model operator for the M9 Armored Combat Earthmover and D7 Dozer.

6. During the processing of this case, the Defense Finance and Accounting Service (DFAS) provided his Master Military Pay Account, which shows service in Kuwait and

evidence of Hostile Fire/Imminent Danger Pay from 19 September 1996 to 7 December 1996 (a period of 2 months and 19 days). Records are wholly unclear as to the actual dates when the applicant deployed and returned from deployment. (Note: DFAS only verifies receipt of hostile fire/imminent danger pay. DFAS does not verify inclusive dates of deployed service or deployment locations beyond the first qualifying country (e.g., Kuwait versus Iraq). DFAS pay records are not considered "source documents," but may be considered as supporting documents leading to a preponderance of the evidence. A second source document is required.

8. Army Regulation 635-8 (Separation and Processing and Documents), establishes the standardized policy for preparing and distributing the DD Form 214. Chapter 5 contains guidance on the preparation of the DD Form 214, to include entering foreign service and remarks pertaining to deployment locations and through dates.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Deployment to Kuwait: Grant. The evidence shows the applicant was awarded an Army Achievement Medal by his command. One of his achievements mentioned on the DA Form 638 is that he volunteered to deploy with the 8th Engineer Battalion to Operation Intrinsic Action from August 1996 to December 1996. This deployment is further confirmed by his pay records. DFAS pay record show he received Hostile Fire/Imminent Danger Pay from 19 September 1996 to 7 December 1996 (a period of 2 months and 19 days) for service in Kuwait. Therefore, the Board determined his DD Form 214 should be corrected to reflect this foreign service and deployment.

b. Korea Defense Service Medal: Grant. The evidence shows the applicant served in Korea from 28 February 1997 to 26 February 1998 (11 months and 29 days). This period of service qualifies him for award of the Korea Defense Service Medal and its addition to his DD Form 214.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 amending his DD Form 214 as follows:

- Block 12f (Foreign Service) delete 11 months and 29 days and add 1 year, 2 months, and 18 days
- Block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) add the Korea Defense Service Medal
- Block 18 (Remarks): add Service in Kuwait from 19 September 1996 to 7 December 1996

8/8/2024

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CHAIRPERSON

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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 635-8, establishes the standardized policy for preparing and distributing the DD Form 214. Chapter 5 contains guidance on the preparation of the DD Form 214, to include entering foreign service and remarks pertaining to deployment locations and through dates:

- block 12f (Foreign Service) enter the total amount of service performed Outside Continental United States (OCONUS) during the period covered by the DD Form 214, to include deployments. List periods of deployed service in block 18 (Remarks)
- block 18 for an active duty Soldier, list any/all OCONUS deployments completed during the period of the DD Form 214 being created, the statement "Service in (Name of Country Deployed) From (inclusive dates)"

3. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. The Korea Defense Service Medal is authorized for award to members of the Armed Forces of the United States who have served on active duty in support of the defense of the Republic of Korea. The area of eligibility (1) encompasses all land area of the Republic of Korea and the contiguous water out to 12 nautical miles and (2) all air spaces above the land and water area. The period of eligibility is 28 July 1954 to a date to be determined by the Secretary of Defense. Service members must have been assigned, attached, or mobilized to units operating in the area of eligibility for 30 consecutive or for 60 nonconsecutive days or meet several other criteria.

4. 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//