

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 August 2024

DOCKET NUMBER: AR20230013754

APPLICANT REQUESTS:

- The daughter of the Service Member (SM) requests to correct item 22b (Total Active Service) of the SM's DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 3 May 1967 to show 1 year and 7 months vice 4 months and 2 days
- A personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, ending 3 May 1967
- Letter Orders Number 09-2318, 24 September 1971
- Certificate of Birth, [REDACTED]
- Healthcare Power of Attorney of [Applicant], 24 March 2010
- Department of Veterans Affairs (VA) letter, 29 April 2023
- [REDACTED] Driver License
- Daughter's business card

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 daughter of the SM states, in effect, she requests correction of the SM's DD Form 214 to show 1 year and 7 months total active service, so they can obtain VA benefits for the SM's assisted living expense that he needs due to dementia. They were denied by the VA. The SM's DD Form 214 shows he accrued 11 days of paid leave which shows the SM was in longer than 4 months and 2 days.

3. A review of the SM's official military records show the following:

- a. He enlisted in the U.S. Army Reserve (USAR) on 4 October 1965.
  - b. On 20 December 1966, Headquarters, XIX U.S. Army Corps, Fort Chaffee, AR, published Letter Orders Number 12-105, which ordered the SM to Active Duty for Training (ACDUTRA) on 2 January 1967.
  - c. On 3 May 1967, the SM was honorably released from ACDUTRA and was transferred back to his USAR unit. His DD Form 214 shows in item 22b "4 months and 2 days", and item 26b (Days Accrued Leave Paid) "11 days."
  - d. On 24 September 1971, Headquarters, Fifth United States Army published Letter Orders Number 09-2318, which honorably discharged the SM from the Army Reserve (Ready), effective 30 September 1971.
4. In support of this case the daughter provides:
- a. Certificate of Birth which shows she was born on [REDACTED] and she is the child of the SM.
  - b. Healthcare Power of Attorney of [SM] dated 24 March 2010, which designated the daughter ([REDACTED]) to serve as the SM's Agent giving to his Agent the power to make decisions with regard to his health care if and when the SM is unable to make his own health care decisions.
  - c. Department of Veterans Affairs letter dated 29 April 2023, which shows, in relevant part, the VA denied the SM's claim for Veteran's Pension Benefits. A review of the SM's DD Form 214 showed he had no active service other than for training purpose.
  - d. [REDACTED] Driver License and business card.

**BOARD DISCUSSION:**

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the DD Form 214 responsible for annotating only active duty service greater than 90 consecutive days of service and the former service member served a majority of his service in the USAR, the Board concluded there was insufficient evidence of an error or injustice warranting a correction to the service dates annotated on the FSM's 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:

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.

2/5/2025

X

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) 15-185 (ABCMR) states, the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states that applicants do not have a right to a hearing before the

ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. AR 635-5 (Personnel Separation - Separation Documents), in effect at that time, prescribes the separation documents that will be furnished to each individual who is separated from the Army, including ACDUTRA personnel, and establishes standardized procedures for the preparation and distribution of these documents. The specific instructions for completing:

a. Item 22b state to enter total active service the individual has completed beginning with earliest period of active service up to and including current period of active duty, less any period served in the Army National Guard or USAR not on active duty, and less time lost under Title 10, USC, section 972.

b. Item 26b state to enter the number of days for which individual was paid for accrued leave. DA Form 481 (Military Leave Record) on file in "Military History" section of the individual's DA Form 201 contains number of days of accrued leave.

4. AR 600-8-10 (Leaves and Passes) prescribes the policies and mandated operating tasks for the leave and pass function of the Military Personnel System. Paragraph 2-3a (Leave accrual) states Soldiers on active duty earn 30 days of leave a year with pay and allowances at the rate of 2 1/2 [2.5] days a month.

//NOTHING FOLLOWS//