

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 September 2024

DOCKET NUMBER: AR20230014891

APPLICANT REQUESTS:

- a. correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 31 December 1991 to show the date he entered active duty as 7 December 1971; and
- b. a personal appearance hearing before the Board via video or telephone.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 4 (Enlistment Contract – Armed Forces of the United States), 7 December 1971
- DA Form 2A (Personnel Qualification Record – Part I), prepared 26 September 1991, with allied documents
- DD Form 214 for the period ending 31 December 1991 – two copies
- Numerous Medical Documents
- Department of Veterans Affairs (VA) Letter, 12 May 2022

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's records obtained from the National Archives and Records Administration are of poor quality and are the best available copies. The information contained in these records and the information/data attested to by the applicant are considered presumptive correct data (i.e., dates).

3. The applicant states, in effect, his entire period of active military service is not shown on his final DD Form 214. He enlisted in the Regular Army and entered active duty on 7 December 1971. He served continuously through 31 December 1991. During his second reenlistment, he was told his previous records could not be found or were destroyed so the first 8 years of his service could not be verified even though he served consecutively. His VA claim file is incorrect as well.

4. His initial DD Form 4 (Enlistment Contract – Armed Forces of the United States), 7 December 1971, shows he enlisted in the Regular Army on 7 December 1971 for a period of 3 years.

5. He was honorably discharged on 26 November 1974 for immediate reenlistment. His DD Form 214 for this period shows he completed 2 years, 11 months, and 20 days of total active service.

6. His DD Form 4, 27 November 1974, shows he reenlisted on 27 November 1974 for a period of 4 years in the rank/grade of specialist five/E-5.

7. He was honorably discharged on 8 November 1978 for immediate reenlistment. His DD Form 214 for this period shows in:

- item 9d (Effective Date) – 8 November 1978
- item 15 (Date Entered Active Duty This Period) – 27 November 1974
- item 18a (Net Active Service This Period) – 3 years, 11 months, and 11 days
- item 18b (Prior Active Service) – 2 years, 11 months, and 20 days (carried forward from previous DD Form 214)
- item 18c (Total Active Service) – 6 years, 11 months, and 2 days
- item 18e (Total Service for Pay) – 6 years, 11 months, and 2 days

8. His DD Form 4, 9 November 1978, shows he reenlisted on 9 November 1978 for a period of 3 years in the rank/grade of specialist five/E-5.

9. He was honorably discharged on 27 September 1979 for immediate reenlistment. His DD Form 214 for this period shows in:

- item 9d (Effective Date) – 27 September 1979
- item 15 (Date Entered Active Duty This Period) – 9 November 1978
- item 18a (Net Active Service This Period) – 10 months and 19 days
- item 18b (Prior Active Service) – 6 years, 11 months, and 2 days (carried forward from previous DD Forms 214)
- item 18c (Total Active Service) – 7 years, 9 months, and 21 days
- item 18e (Total Service for Pay) – 7 years, 9 months, and 21 days

10. His DD Form 4, 28 September 1979, shows he reenlisted on 28 September 1979 for a period of 5 years in the rank/grade of specialist five/E-5.

11. He was honorably discharged on 23 April 1984 for immediate reenlistment. He was not issued a DD Form 214 for this period of service.

12. His records indicate he reenlisted on 24 April 1984. His DD Form 4 is not available for review.

13. He was honorably discharged on 30 October 1989 for immediate reenlistment. He was not issued a DD Form 214 for this period of service.

14. His records indicate he reenlisted on 31 October 1989. His DD Form 4 is not available for review.

15. Headquarters, 4th Personnel Service Company, 4th Infantry Division (Mechanized), Orders 413-06, 6 August 1991, retired him and placed him on the Retired List in the rank/grade of staff sergeant/E-6 effective 31 December 1991.

16. He retired on 31 December 1991. His final DD Form 214 for this period shows in:

- item 12a (Date Entered Active Duty This Period) – 9 November 1978 (should read 28 September 1979)
- item 12b (Separation Date This Period) – 31 December 1991
- item 12c (Net Active Service This Period) – 13 years, 1 month, and 22 days (should read 12 years, 3 months, and 4 days)
- item 12d (Total Prior Active Service) – 6 years, 11 months, and 2 days (should read 7 years, 9 months, and 21 days)
- item 18 (Remarks) – Immediate Reenlistments This Period – 9 November 1978 through 27 September 1979; 28 September 1979 through 23 April 1984; and 24 April 1984 through 30 October 1989 (should read 28 September 1979 through 23 April 1984; 24 April 1984 through 30 October 1989; 31 October 1989 through 31 December 1991)

17. He provided the following additional documents for consideration:

- a. his DA Form 2A showing his Basic Active Service Date as 7 December 1971;
- b. numerous medical documents showing he was given an enlistment physical on or about the time he entered military service in December 1971; and

c. the VA letter, 12 May 2022, summarizing his VA benefits and showing his periods of Army service as 27 November 1974 through 24 November 1978 and 9 November 1978 through 31 December 1991.

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that partial relief was warranted. The applicant's contentions, his military records, and regulatory guidance were carefully considered. The applicant's entire period of active military service from 1971 to 1991 is not shown on his final DD Form 214 because he was previously issued a separate DD Form 214 for each period of immediate reenlistment.

a. The applicant initially enlisted in the Regular Army (RA) on 7 December 1971. He was honorably discharged on 26 November 1974 for immediate reenlistment. He was issued a DD Form 214 that captured his 2 years, 11 months, and 20 days of total active service. No errors.

b. He reenlisted in the RA on 27 November 1974, and he was honorably discharged on 8 November 1978 for immediate reenlistment. He was issued a DD Form 214 for this period of service that captured his 3 years, 11 months, and 11 days as well as his prior active service of 2 years, 11 months, and 20 days, for a total of 6 years, 11 months, and 2 days of active service. No errors.

c. He reenlisted on 9 November 1978, and he was again honorably discharged on 27 September 1979 for immediate reenlistment. He was issued a DD Form 214 for this period of service that captured his 10 months and 19 days of active service as well as his prior service of 6 years, 11 months, and 2 days of active service for a total of 7 years, 9 months, and 21 days. No errors.

d. The applicant reenlisted on 28 September 1979 and served continuously on active duty through retirement on 31 December 1991. Starting in October 1979, the Army stopped issuing a separate DD Form 214 for each period of immediate reenlistment. The date of entry, net active service, and prior active service on his retirement DD Form 214 are in error:

(1) Since the applicant was previously issued a DD Form 214 for the period 9 November 1978 to 27 September 1979, his retirement DD Form 214 should have started on 28 September 1979, not on 9 November 1978.

(2) The period from his correct date of reenlistment (28 September 1979) to the date of retirement (31 December 1991) is 12 years, 3 months, and 4 days.

(3) The prior active service from date of entry 7 December 1971 to the day before his 27 September 1979 is 7 years, 9 months, and 21 days.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ 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 amending his DD Form 214 ending on 31 December 1991 as follows:

- Block 12a, delete 9 November 1978 and add 27 September 1979
- Block 12b, delete 13 years, 1 month, and days and add 12 years, 3 months, and 4 days.
- Block 12c, delete 6 years, 11 months and 2 days and add 7 years, 9 months, and 21 days.

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 the entry date 7 December 1971.

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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 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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 evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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. Army Regulation 635-5 (Separation Documents), effective 15 October 1973, prescribed the separation documents that are prepared for individuals upon retirement, discharge, or release from active military service. This regulation stated a DD Form 214 would be issued to all personnel at the time of retirement, discharge, or release from the Army.
4. Army Regulation 635-5 (Separation Documents), effective 15 March 1978, prescribed the separation documents which are prepared for individuals upon retirement, discharge, or release from active military service. This regulation stated a DD Form 214 would be issued to all personnel at the time of retirement, discharge, or release from the Army.
5. Army Regulation 635-5 (Separation Documents), effective 1 October 1979, prescribed the separation documents that must be prepared for Soldiers at the time of retirement, discharge, or release from active duty service or control of the Active Army. It established standardized policy for preparing and distributing the DD Form 214. This revision ended the need to prepare a DD Form 214 for enlisted members who were discharged for immediate reenlistment.
 - a. Paragraph 1-4 stated a DD Form 214 would not be prepared for enlisted members discharged for immediate reenlistment in the Regular Army.

b. Paragraph 2-5 stated do not reissue a DD Form 214 to replace record copies or DD Forms 214 lost by service members. If no DD Form 214 is available, issue a statement of service or transcript of military record.

c. The specific instructions for item 12a (Date Entered Active Duty This Period) stated to enter the date of the first day of the last immediate reenlistment for which a DD Form 214 was not issued.

d. The specific instructions for item 18 (Remarks) stated to enter a list of enlistment periods for which a DD Form 214 was not issued under the provisions of paragraph 1-4 (example: Immediate Reenlistments This Period: 761210-791001; 791002-821001).

//NOTHING FOLLOWS//