

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 November 2024

DOCKET NUMBER: AR20240000162

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from active Duty) to show in item 18 (Remarks) his separation pay is \$22,000 vice \$200,227.93.

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

- DD Form 149 (Application for Correction of Military Record)(duplicate)
- Self-Authored Letter
- DD Form 214
- Two Internal Revenue Letters
- Email
- Digital Privacy Release Form
- Defense Finance Accounting Service (DFAS) Email

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 his DD Form 214 states his discharge he received \$200,000.00 and he actually received \$22,000. He receives 80 percent disability check which is going on a bill. He is entitled to this money and in order to receive it, his DD Form 214 has to be corrected or he will continue to pay on a bill of \$200,000.00 which is possibly a typographical error rather than a legitimate bill. He was addicted to crack cocaine really bad and did not realize the mistake when he filed for disability and approved for 20%, he realized how much he had to pay when he noticed the error.

3. The applicant provides:

a. In a self-authored letter, undated the applicant states he and a friend were honorably discharged through the Qualitative Management Program (QMP) after 17 years of service and his friend ALK__ received \$22,000.00. He reiterates the above and

that he did not receive \$200,000.00. That is an excessive amount of money for a staff sergeant/SSG to receive for half separation pay. He is 80% disabled and because of this error he is not receiving any of his Veterans Administration disability, because it is all being taken to pay on a \$200,000.00 bill that he does not owe. This is causing an exceptional hardship for a Veteran who faithfully served his country.

b. IRS letter, 31 December 1996 shows the applicant's adjusted gross income: 40,927.00 and taxable income: 34,377.00.

c. IRS letter, 31 December 1997 shows the applicant's adjusted gross income: 15,550.00 and taxable income: 8,600.00.

d. The DFAS email, 6 September 2024 shows "the member's pay records are not reflecting any payments for separation pay".

4. The applicant's service record shows the following information:

a. DD Form 4 (Enlistment or Reenlistment Agreement-Armed Forces of the United States) reflects he enlisted in the Regular Army on 27 January 1978.

b. He reenlisted on 2 October 1989, 26 February 1982, and 20 September 1990.

c. The Memorandum, Subject Appeal of Department of the Army Imposed Bar to Reenlistment Under the QMP (Enlisted Qualitative Early Separation Program), 19 March 1996 shows the applicant would be honorably discharged due to "Reduction in Force". In addition, request the service Finance and Accounting Officer that the applicant is entitled to half separation pay as prescribed by paragraphs 202c and 2-3a, Department of the Army Circular 635-92-1.

d. Orders 135-0074, 14 May 1996 show in additional instructions (1) the applicant is entitled to one half pay in accordance with Title 10, USC 1174. The amount of half separation pay is not listed.

e. The applicant was honorably discharged on 31 July 1996. His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-200 (Personnel Separations-Enlisted Personnel), Paragraph 16-8, for Reduction in Force with separation code JCC and reentry code 4. He completed 17 years, 11 months, and 16 days of net active service.

5. Title 10 United States Code (USC), section 1174 (c)(1) states a member of an armed force other than a regular member who is discharged or released from active duty and who has completed six or more, but fewer than 20, years of active service immediately

before that discharge or release is entitled to separation pay, if the member's discharge or release from active duty is involuntary.

6. Army Regulation 37-104-4 (Military Pay and Allowances Policy) states, only the Director, Defense Finance Accounting Surface (DFAS)–IN may make settlement actions affecting the military pay accounts of Soldiers as a result of correction of records by the ABCMR per provisions of AR 15–185.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the email correspondence received from the Defense Finance and Accounting Service, the Board recommended removing all reference of the applicant receiving separation pay from 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:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by removing the language "SEPARATION PAY - \$200227.93" from block 18 (REMARKS).

[REDACTED]

[REDACTED]

[REDACTED]

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. Title 10 USC, section 1174 (c)(1) states a member of an armed force other than a regular member who is discharged or released from active duty and who has completed six or more, but fewer than 20, years of active service immediately before that discharge or release is entitled to separation pay, if the member's discharge or release from active duty is involuntary.
3. Army Regulation 635-200 (Personnel Separations-Enlisted Personnel) Paragraph 16-8 shows Soldiers may be separated prior to expiration of term of service or period when specifically, authorized. When authorization limitations, strength restrictions, or budgetary constraints require the size of the enlisted force be reduced, the Secretary of the Army, or his designee, will authorize voluntary or involuntary early separation. The Secretary of the Army has directed the early release of Soldiers with a QMP bar to reenlistment (Enlisted Qualitative Early Separation Program), when budgetary or authorization limitations require a reduction in enlisted strength drawdown).
4. Department of Defense Instruction (DODI) 1332.29 (Involuntary Separation Pay Non-Disability) states full payment of non-disability involuntary separation pay is authorized to Service members of the Active and Reserve Components who are involuntarily separated from Active Duty (AD)/Active Service (AS) and who meet each of following five conditions:
 - a. The Service member has completed at least 6 years, but fewer than 20 years, of AD/AS. For Reserve Service members, 6 years of continuous AD/AS must have preceded immediately before separation. A period of AD/AS is continuous if any break in military service does not exceed 30 days.
 - b. The Service member's separation is characterized as "honorable" and none of the conditions in Paragraph 3.4. apply (separation at service members own request, declines Reserve service at separation, released for training, eligible for retired pay, performance, misconduct, or other disciplinary reasons)
 - c. The Service member is being involuntarily separated by the Military Service concerned through either the denial of reenlistment or the denial of continuation on active duty or in an active service status, under one of the following specific conditions:

(1) The Service member is fully qualified for retention but is denied reenlistment or continuation by the Military Service concerned. This includes a Service member who is eligible for promotion as established by the Secretary of the Military Department concerned but is denied reenlistment or continuation on AD/AS by the Military Service concerned under established promotion or high year of tenure policies.

(2) The Service member is fully qualified for retention and is being involuntarily separated under a reduction in force by authority designated by the Military Service concerned as authorized pursuant to Title 10, USC.

5. Army Regulation 37-104-4 (Military Pay and Allowances Policy) states, only the Director, Defense Finance Accounting Surface (DFAS)–IN may make settlement actions affecting the military pay accounts of Soldiers as a result of correction of records by the ABCMR per provisions of AR 15–185.

6. Army Regulation 635-5 (Personnel Separations-Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a summary of a soldier's most recent period of continuous active duty. It provides a brief, clearcut record of active-duty service at the time of release from active duty, retirement, or discharge.

//NOTHING FOLLOWS//