

IN THE CASE OF: ██████████

BOARD DATE: 1 August 2024

DOCKET NUMBER: AR20240000614

APPLICANT REQUESTS: in effect, the correction of his separation date on his DD Form 214 (Certificate of Release or Discharge from Active Duty), ending on 24 August 1984, to show 1 September 1984.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, ending on 24 August 1984
- DA Form 31 (Request and Authority for Leave)
- DD Form 256A (Honorable Discharge Certificate)
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service)
- NGB Form 55 (Army National Guard (ARNG) Honorable Discharge Certificate)
- State ██████████ Department of Health Certification of Birth

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 in effect, he requests his separation date from active duty be corrected on his DD Form 214 to reflect 1 September 1984 instead of 24 August 1984.

3. A review of the applicant's service record shows:

a. On 2 September 1982, the applicant enlisted in the Regular Army for a period of 2-years.

b. The applicant's DA Form 2-1 (Personnel Qualification Record) shows the applicant:

- enlisted in the U.S. Army Reserve (USAR) Control Group (Delayed Entry) for the period of 10 June through 1 September 1982
- enlisted in the RA on 2 September 1982
- transferred to the USAR Control Group (Annual Training) effective 24 August 1984

c. On 20 June 1984, Orders Number 164-40, issued by the U.S. Army Regional Personnel Center, Nurnberg, assigned the applicant to the Separation Transfer Point, effective 30 August 1984, for release from active duty on 30 August 1984 unless changed or rescinded with an expiration term of service of 1 September 1984.

d. On 27 June 1984, Orders Number 171-34, issued by the U.S. Army Regional Personnel Center, Nurnberg, amended Orders Number 164-40 to reflect a report date to the Separation Transfer Point, effective 26 July 1984, for a release from active duty on 1 September 1984. He was authorized 37-days of terminal leave.

e. On 17 July 1984, Orders Number 97-5, issued by the U.S. Army Regional Personnel Center, Nurnberg, awarded the applicant the Army Good Conduct Medal for his service during the period of 2 September 1982 through 1 September 1984.

f. The applicant's DA Form 31 shows on 19 July 1984, the applicant requested 30.5-days of leave for the period of 23 July through 24 August 1984. The applicant departed for leave on 25 July 1984. In the remarks block on DA Form 31 it states in effect, the applicant understood that his expiration term of service had been adjusted from 1 September 1984 to 24 August 1984 for 8-days of excess leave, which he signed.

g. On 24 August 1984, the applicant was honorably released from active duty and assigned to the USAR Control Group (Annual Training). DD Form 214 shows the applicant completed 1-year, 11-months and 23-days of active service.

h. On 31 August 1988, Orders Number D-08-066788, issued by the USAR Personnel Center, the applicant was honorably discharged from the USAR, effective 1 September 1988.

4. The applicant provides:

a. DA Form 31 which shows on 28 March 1984 the applicant requested terminal leave for 37-days for the period of 27 July through 1 September 1984 which was approved by his commander.

b. DD Form 256A which shows the applicant was honorably discharged from the USAR, effective 1 September 1988.

c. NGB Form 22 which shows the applicant enlisted in the ARNG on 27 July 1989 and he was honorably discharge from the ARNG on 26 July 1990.

d. NGB Form 55 which shows the applicant was honorably discharged from the ARNG, effective 26 July 1990.

e. Certificate of live birth from the State [REDACTED] showing the applicant's name and date of birth.

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 applicant was issued orders reassigning him to the Separation Transfer Point, effective 30 August 1984, for release from active duty on 30 August 1984 unless changed or rescinded with an expiration term of service of 1 September 1984. These orders were amended to reflect a report date to the Separation Transfer Point, effective 26 July 1984, for a release from active duty on 1 September 1984. He was authorized 37-days of terminal leave. The record also contains a DA Form 31 that shows he requested and took 30.5-days of leave for the period of 23 July through 24 August 1984. He departed for leave on 25 July 1984. The remarks block on DA Form 31 states he understood that his expiration term of service had been adjusted from 1 September 1984 to 24 August 1984 for 8-days of excess leave, which he signed. The Board noted that the applicant's excess leave essentially adjusted his separation date to 24 August 1984, which is the date shown on his DD Form 214. The Board found no error or injustice.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.



 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) 635-5 (Personnel Separations – Separation Documents) in effect at the time, prescribes the separation documents which are prepared for individuals upon retirement, discharge, or release from active military service. It established standardized policy for preparing and distributing the DD Form 214. The basic source documents used for preparing the DD Form 214 are DA Form 201 (Military

Personnel Records Jacket, DA Form 2 and DA Form 2-1 (Personnel Qualification Records), separation orders, DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States), DA Form 3716 (Personnel Financial Records, enlistment records and DD Form 214 and any other available records. Paragraph 2-8 stated for item 12b it is self-explanatory for the separation date. Item 18 (Remarks) it states a. Excess leave (preceding 2 years). Enter the total number of days and inclusive dates of time spent in an excess leave status. For example: Excess leave (creditable for all purposes except pay and allowance)-10 days: 780515-780524. Enter the inclusive dates of any non-pay or excess leave.

3. AR 630-5 (Personnel Absences – Leave and Passes) in effect at the time, prescribes policies and procedures governing various types of authorized absences. Paragraph 5-2, a negative leave balance at the time of release from active duty, discharge, first extension of enlistment, desertion, or death is excess leave. As such, it becomes an indebtedness for which collection must be made. However, excess leave does not occur when a member is separated more than three months prior to expiration of term of service to immediately reenter the service in the same or another status. Members entering an excess leave status must be counselled on the following:

- All periods of excess leave are without pay and allowances, including half days
- No leave accrues to members during periods of excess leave
- There is no entitlement to physical disability retired pay should the member incur a physical disability while in an excess leave status

Annotate item 30, DA Form 31, with the following statement, when a member is authorized excess leave. Periods of excess leave are without pay and allowances. This includes entitlement to physical disability retired pay should you become disabled while in an excess leave status. Further, no leave accrues during periods of excess leave.

//NOTHING FOLLOWS//