

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 August 2024

DOCKET NUMBER: AR20240000752

APPLICANT REQUESTS: in effect, correction of block 29 (Dates of Time Lost During This Period) of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to begin on 19 July 2001 instead of 1 July 2001.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4187 (Personnel Action), 20 July 2001
- DD Form 553 (Deserter/Absentee Wanted by the Armed Forces), 20 August 2001
- DD Form 214

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, evidence provided and contained in his Official Military Personnel File (OMPF) show his status changed from Present for Duty to Absent Without Leave effective 19 July 2001.
3. The applicant enlisted in the Regular Army on 8 July 1998. He served in military occupational specialty 92A (Automated Logistics Specialist).
4. On 8 July 2004, he was discharged under other than honorable conditions due to misconduct. The DD Form 214 he was issued shows in:
 - block 12a (Date Entered Active Duty This Period) "1998 07 08"
 - block 12b (Separation Date This Period) "2004 07 08"
 - block 12c (Net Active Service this Period) "0003 02 11"
 - block 12d (Total Prior Active Service) "0000 05 14"
 - block 12e (Total Prior Inactive Service) "0000 07 14"

- block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) Global War on Terrorism Service Medal, Army Service Ribbon.
- block 29, "Under 10 USC 972: 20010701 - 20040405"

5. The applicant provides and his OMPF contains:

a. DA Form 4187 dated 20 July 2001, which shows his duty status was changed from Present for Duty to Absent Without Leave effective 0600 hours, 19 July 2001.

b. DD Form 553 dated 20 August 2001, which shows on or about 19 July 2001 the applicant did, without authority and with the intent to remain away therefrom permanently, absent himself from his unit and has remained continuously so absent until 20 August 2001.

6. His OMPF contains DD Form 616 (Report of Return of Absentee), dated 5 April 2004, which shows his absence began on 19 July 2001, 0600 hours. His date of initial return was 5 April 2004, 1530 hours.

7. However, his OMPF also contains his Separation Under Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 14-12c, Commission of a Serious Offense. This packet contains a DA Form 4187 and commander comments which notes his duty status changed from Present for Duty to Absent Without Leave effective 1 July 2001.

8. The applicant's separation packet also contains a Record of Proceedings Under Article 15 which shows he received punishment under Article 15 of the Uniform Code of Military Justice for absenting himself from his unit on 1 July 2001 until 6 April 2004.

9. 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.

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 Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records, the Board noted the applicant's source documents identified his change of duty status from present for duty to absent without leave effective 19 July 2001. Based upon a preponderance of the evidence, the Board determined there is sufficient evidence to grant relief.

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 the Army records of the individual concerned be corrected by amending the applicant's DD Form 214 for the period ending 7 October 1991 to show in block 29 (Dates of Time Lost This Period) "Under 10 USC 972: 20010719 – 20040405."

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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 (Separation 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. For block 29 (Dates of Time Lost During This Period), verify that time lost as indicated by the Defense Finance and Accounting Service has been subtracted from "Net Active Service This Period" (block 12c) if lost time was not "made good." If the expiration term of service (ETS) was adjusted as a result of lost time the Soldier served until ETS, the lost time was "made good." Lost time under 10 U.S. Code 972 is not creditable service for pay, retirement, or veterans' benefits. However, the Army preserves a record (even after time is made up) to explain which service between "Date Entered Active Duty This Period" (block 12a) and "Separation Date This Period" (block 12b) is creditable service. Time lost after ETS is nonchargeable time under 10 U.S. Code 972, but it must also be reported to ensure it is not counted in computation of total creditable service for benefits. For enlisted Soldiers, show inclusive periods of time lost to be made good under 10 U.S. Code 972, and periods of nonchargeable time after ETS.
3. 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//