

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 October 2024

DOCKET NUMBER: AR20240000930

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 8 September 1982 to show in:

- a. item 12a (Date Entered Active Duty This Period), 26 December 1972 instead of 13 December 1974; and
- b. item 12b (Separation Date This Period), 12 July 1984 instead of 8 September 1982.

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)
- U.S. Army Reserve Command Form 578-R (Individual Training Record), undated
- DD Form 214 for the period ending 8 September 1982

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 his entry date and separation date are incorrect as shown on his retirement DD Form 214. He requests correction to show his total military service.
3. His DD Form 4 (Enlistment Contract – Armed Forces of the United States), 26 December 1972, shows he enlisted in the Regular Army on 26 December 1972 for a period of 2 years.
4. Headquarters, U.S. Army Air Defense Center and Fort Bliss, Special Orders Number 241, 13 December 1974, honorably discharged him in the rank/grade of specialist four/E-4 effective 12 December 1974 for immediate reenlistment and

reenlisted him effective 13 December 1974. He completed 1 year, 11 months, and 17 days of net active service during this period.

5. His military records do not contain a DD Form 214 covering his military service from 26 December 1972 through 12 December 1974.

6. His DD Form 4, 13 December 1974, shows he executed an immediate reenlistment in the Regular Army on 13 December 1974 for a period of 6 years beginning in the rank/grade of specialist four/E-4.

7. He was promoted to the rank/grade of staff sergeant/E-6 effective 1 July 1979.

8. His DD Form 4, 24 September 1980, shows he executed an immediate reenlistment in the Regular Army on 24 September 1980 for a period of 3 years beginning in the rank/grade of staff sergeant/E-6.

9. The DA Form 199 (Physical Evaluation Board (PEB) Proceedings) shows a PEB convened in San Francisco, CA, on 29 March 1982 to determine his medical fitness for continued service in the Army. The PEB determined he was physically unfit and recommended a disability rating of 30 percent and his placement on the Temporary Disability Retired List (TDRL) with reexamination during September 1983. He did not concur and demanded a formal hearing on 12 April 1982.

10. The DA Form 199 shows a formal PEB convened in San Francisco, CA, on 6 May 1982 to reevaluate him. The PEB determined he was physically unfit and recommended a disability rating of 50 percent and his placement on the TDRL with reexamination during July 1983. The PEB noted he requested continuation on active duty.

11. On 17 March 1981 in a separate document (Election Statement – Formal Hearing), he did not agree with the PEB recommended findings and indicated he would submit a letter of rebuttal no later than 4 June 1982 while awaiting a medical report. (Note: His letter of rebuttal and medical report are not available for review.)

12. He requested continuation on active duty as evidenced by a U.S. Army Enlistment Eligibility Activity memorandum (Continuation on Active Duty of Disabled Personnel under Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation)), 2 August 1982, informing him that his request for retention on active duty was not favorably considered.

13. U.S. Army Military Personnel Center Orders D165-1, 25 August 1982, relieved him from assignment and duty because of physical disability effective 8 September 1982 and placed him on the TDRL effective 9 September 1982 with a disability rating of 50 percent.

14. He retired on 8 September 1982 by reason of temporary physical disability and was placed on the TDRL in the rank/grade of staff sergeant/E-6 effective 9 July 1982. His DD Form 214 shows in:

- item 12a (Date Entered Active Duty This Period) – 13 December 1974
- item 12b (Separation Date This Period) – 8 September 1982
- item 12c (Net Active Service This Period) – 7 years, 8 months, and 26 days
- item 12d (Total Prior Active Service) – 1 year, 11 months, and 17 days (previous service from 26 December 1972 through 12 December 1974)
- item 18 (Remarks) –
 - Placed on TDRL 9 September 1982 in Grade of Staff Sergeant – Disability Rating 50 Percent
 - Immediate Reenlistment This Period: 13 December 1974-23 September 1980; 24 September 1980-8 September 1982

15. The DA Form 199, 13 March 1984, shows a PEB convened in San Francisco, CA, on 13 March 1984 to reevaluate him and determined he was physically unfit and recommended a disability rating of 30 percent and his placement on the Permanent Disability Retired List (PDRL). He did not agree with the recommended findings and requested another formal hearing on 23 March 1984.

16. The DA Form 199, 21 May 1984, shows a formal PEB convened at Walter Reed Army Medical Center on 21 May 1984 to reevaluate him and determined he was physically unfit and recommended a disability rating of 50 percent and his placement on the PDRL. In a separate document (Rebuttal Statement), he agreed with the recommendation and signed this document with his signature on 21 May 1984.

17. U.S. Army Military Personnel Center Orders D118-7, 26 June 1984, removed him from the TDRL and permanently retired him by reason of permanent physical disability with a disability rating of 50 percent effective 11 July 1984.

18. He provided his individual training record showing he performed basic training and advanced individual training at Fort Dix, NJ.

BOARD DISCUSSION:

1. 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.

2. The Board carefully considered the applicant's contentions, his military records, regulatory guidance pertaining to issuance of DD Forms 214 and the entries on the DD Form 214 when he was placed on the TDRL. The Board found that the period of his

first enlistment is properly recorded in item 12.d Total Prior Active Service on his 8 Sep 82 DD form 214. The Board did not find evidence of additional active-duty service between the time of his placement on the Temporary Retired list and when he was placed on the Permanent retired list. The Board found that in accordance with reference 3 below, no DD form 214 will be issued when an individual is removed from the TDRL. The Board also found, in accordance with the same reference that if a DD Form 214 is missing, it will be replaced by a transcript of military service. Based on a preponderance of evidence, the Board found that the dates of service reflected on the applicant's 1982 DD Form 214 were not in error or unjust. The Board did determine that in place of a missing DD Form 214, his period of service between 26 December 1972 through 12 December 1974 should be documented as Honorable on a transcript of military service.

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 partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by issuing the applicant a Statement of Honorable Service for the period 26 December 1972 through 12 December 1974.

2. The Board further determined that 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 in excess of the above.

6/10/2025

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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, 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 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. The ABCMR members will direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists in the record.

3. Army Regulation 635-5 (Separation Documents), effective 1 October 1979, prescribed 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 DD Form 214 provides a

brief, clear-cut record of active service at the time of release from active duty, retirement, or discharge.

a. Paragraph 1-4 provided that a DD Form 214 will not be prepared:

- for members being removed from the TDRL
- for enlisted members discharged for immediate reenlistment in the Regular Army

b. Paragraph 2-5 stated do not reissue DD Forms 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 12b (Separation Date This Period) stated this item is self-explanatory.

e. 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//