

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 September 2024

DOCKET NUMBER: AR20240001145

APPLICANT REQUESTS: in effect –

- correction to her DD Form 214, Certificate of Discharge or Release from Active Duty, to show she was ordered to active duty under the provisions of Title 10, U.S. Code, section 678
- personal appearance 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
- 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, that she was ordered to active duty by Presidential declaration from 25 March 1991 to 10 July 1991, during Desert Storm. Unbeknownst to her, the DD Form 214 that she was issued incorrectly lists the wrong statute. The code entered was Title 10, U.S. Code, section 673. In her estimation, the appropriate code should have been Title 10, U.S. Code, section 678. The improper code prohibits her from receiving any health care benefits from the Department of Veterans Affairs (VA) normally granted for an active-duty designation.
3. A review of the records shows the applicant received a direct appointment in the Army Nurse Corps, U.S. Army Reserve (USAR) on 8 April 1974.
4. On 13 November 1978, she transferred to the USAR Control Group (Reinforcement).

5. Orders A-02-013303, 25 February 1991, published by U.S. Total Army Personnel Command, ordered the applicant to active duty under the provisions of section 672(d) on 25 March 1991. These orders contain "Additional Instructions" which state: "Officer will be ordered to TTAD in current reserve grade to pursue special work under the provision of Title 10, USC 682." The authority for these orders is listed as Title 10, U.S. Code, sections 672(d) and 682.

6. She was released from active duty on 10 July 1991. Her DD Form 214 shows she was ordered to active duty in support of Operation Desert Shield/Desert Storm, in accordance with Title 10, U.S. Code, section 673b.

7. Title 10, U.S. Code, section 672d, Reserve Components Generally, states at any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned.

8. Title 10, U.S. Code, section 673b, Ready Reserve, states to achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to –

a. the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

b. family responsibilities; and

c. employment necessary to maintain the national health, safety, or interest.

9. Title 10, U.S. Code, section 678, Reserve: for organizing, administering, etc., reserve components, states:

a. A Reserve ordered to active duty under section 672(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be ordered in his reserve grade. While so serving he continues to be eligible for promotion as a Reserve, he is if otherwise qualified.

b. To assure that a Reserve on duty under subsection (a) receives, periodic refresher training in the categories for which he is qualified, the Secretary concerned may detail him to duty with any armed force, or otherwise as the Secretary sees fit.

10. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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. Additionally, applicants may be represented by counsel at their own expense.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the information reflected on the applicant's order calling her to active duty citing Title 10, Section 672d as the justification for her call to active duty, the Board concluded there is sufficient evidence to show that the information currently on her DD214 warrants correction showing that provision, rather than the requested provision.

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 the applicant's DD Form 214, for the period ending 10 July 1991, by:

- removing from block 18 (Remarks) the language: "Ordered to active duty in support of Operation Desert Shield/Desert Storm IAW 10 USC 673B"
- adding to block 18 (Remarks) the language: "Ordered to active duty in support of Operation Desert Shield/Desert Storm IAW 10 USC 672(D)"

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 to show she was ordered to active duty under the provisions of Title 10, U.S. Code, section 678.

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, U.S. Code, section 672d, Reserve Components Generally, states at any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned.

3. Title 10, U.S. Code, section 673b, Ready Reserve, states to achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to –

a. the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

b. family responsibilities; and

c. employment necessary to maintain the national health, safety, or interest.

4. Title 10, U.S. Code, section 678, Reserve: for organizing, administering, etc., reserve components, states:

a. A Reserve ordered to active duty under section 672(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be ordered in his reserve grade. While so serving he continues to be eligible for promotion as a Reserve, he is if otherwise qualified.

b. To assure that a Reserve on duty under subsection (a) receives, periodic refresher training in the categories for which he is qualified, the Secretary concerned may detail him to duty with any armed force, or otherwise as the Secretary sees fit.

5. Title 10, U.S. Code, section 682, Reserves: kinds of duty, states notwithstanding any other provision of law, a member of a reserve component who is on active duty other than for training may, under regulations prescribed by the Secretary concerned, be detailed or assigned to any duty authorized by law for members of the regular component of the armed force concerned. The words “armed force concerned” are substituted for the words “Armed Forces of the United States.” The words “now or hereafter” and “officers and enlisted” are omitted as surplusage. The words “other than for training” are inserted, since the words “active duty” were defined in the source statute cited above to exclude active duty for training.

6. AR 15-185, ABCMR, 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. 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. Additionally, applicants may be represented by counsel at their own expense.

//NOTHING FOLLOWS//