

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 November 2024

DOCKET NUMBER: AR20240001531

APPLICANT REQUESTS: in effect, issuance of a DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period October 2007 through January 2009.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5016 (Chronological Statement of Retirement Points), 13 October 2022
- DA Form 67-9 (Officer Evaluation Report) for the rating periods 21 May 2007 through 5 June 2009

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 he is not currently credited with the proper amount of active duty time served in support of Global War on Terrorism, which directly impacts his Gray Area retirement. He was on active duty orders for the 412th Engineer Command and the 926th Engineer Brigade from 2007-2009. He was not issued a DD Form 214 at the completion of this duty before his deployment to Afghanistan in 2009-2010. He has tried unsuccessfully to secure copies of these orders from the 412th TEC, the 81st Regional Readiness Command and the U.S. Army Human Resources Command (AHRC). He was advised by AHRC that a DD Form 214 would have to be created to credit his active duty time and this Board was recommended to possibly facilitate that action.
3. The applicant was appointed as a Reserve commissioned officer of the Army and executed an oath of office on 17 May 1985. He entered active duty for retraining from 21 May to 29 September 1986 and completed the Armor Officer basic Course.
4. He was issued a Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) on 21 June 2006.

5. He was ordered to active duty on 14 April 2006 in support of Operation Iraqi Freedom. He served in Kuwait/Iraq from 23 April 2006 to 22 April 2007. He was honorably released from active duty on 20 May 2007 and was issued a DD Form 214 that credited him with 1 year, 1 month, and 7 days of active service.

6. There are no mobilization or active duty orders on file, or provided by the applicant, in 2007 or 2008. The applicant's Officer Evaluation Reports show:

- From 21 May 2007 to 1 November 2007, he was assigned to a troop program unit of the U.S. Army Reserve, 412th Engineer Command in Vicksburg, MS
- From 1 November 2007 to 31 October 2008, he was assigned to a troop program unit of the U.S. Army Reserve, 926th Engineer Brigade, Vicksburg, MS
- From 1 November 2008 to 5 June 2009, he was assigned to a troop program unit of the U.S. Army Reserve, 926th Engineer Brigade, Vicksburg, MS

7. He was mobilized and entered active duty on 18 August 2009 in support of Operation Enduring Freedom. He served in Afghanistan from 28 September 2009 to 14 July 2010. He was honorably released from active duty on 26 August 2010 and was issued a DD Form 214 that credited him with 1 year and 9 days of active service.

8. On 17 May 2014, Headquarters, U.S. Army Reserve Command published orders transferring him to the Retired Reserve on 15 June 2013 for maximum authorized years of service. The applicant's DA Form 5016 (Chronological Statement of Retirement Points) shows the applicant already received active duty credit/retirement points between October 2007 and January 2009.

9. The Defense Finance and Accounting Service advised that the applicant served in Afghanistan from 28 September 2009 to 14 July 2010 (already listed on his DD Form 214 for the period 18 August 2009 to 26 August 2010).

10. The U.S. Army Human Resources Command (AHRC) advised via an advisory opinion, that they were unable to locate a DD Form 214 for [Applicant] for the requested dates of 19 October 2007 through 9 January 2009. However, AHRC has prepared and enclosed a DA Form 1569, Transcript of Military Record, showing military active service from 19 October 2007 through 9 January 2009. The DA Form 1569 is normally accepted by other government agencies in lieu of a DD Form 214.

11. The applicant was provided with a copy of the AHRC advisory opinion to give him an opportunity to submit a response/rebuttal. He did not respond.

12. By regulation (AR 635-8), paragraph 8-2, Once a DD Form 214 has been issued, transition centers do not reissue except for the following reasons: (1) When directed by appellate authority, executive order, or by the Secretary of the Army; (2) When it is

determined that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215; (3) Activities listed in paragraph 8–1b and 8–1c may reissue DD Form 214 when certain circumstances listed in paragraph 8 – 4 apply. Do not issue DD Form 214 to replace copies or DD Forms 214 lost by the Soldier. If no DD Form 214 is available, issue DA Form 1569 (Transcript of Military Record).

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. The evidence of record shows the applicant enlisted served a period of active duty service in which the U.S. Army Human Resources Command (HRC) issued a statement of service for the period requested. The Board determined no additional relief is warranted.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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.

6/10/2025

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, 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 Personnel Separations Separation Processing and Documents, prescribes policy and procedural guidance relating to transition management. Chapter 5 provides for preparing separation documents. It states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active, retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service. Sub-paragraph 5-1 states except as provided in paragraph 5– 2, a DD Form 214 will be prepared for Soldiers in the following categories:

a. Regular Army Soldiers on termination of active duty because of administrative separation (including separation because of retirement or expiration of term of service (ETS), physical disability separation, or punitive discharge resulting from a court-martial.

b. Reserve Component (RC) Soldiers completing 90 days or more days of continuous active duty. For example, such periods may consist of ADOS (Active Duty for Operational Support), contingency operations-ADOS, active duty operational support-RC, AGR (Active Guard Reserve), or full-time National Guard duty for operational support.

c. RC Soldiers separated for cause or physical disability regardless of the length of time served on active duty.

d. Recalled retirees on active duty reverting to retired status regardless of the period of active duty service.

e. Army national Guard (ARNG) and USAR Soldiers mobilized under 10 U.S. Code (USC) sections 12301, 12302, 12304, 12304a, or 12304b and ARNG Soldiers called into Federal service under 10 USC 12301 or 32 USC 502, regardless of length of mobilization, when transitioned from active duty. Soldiers who report to a mobilization station and are found unqualified for active duty within the first 30 days will be excluded from this provision. They will receive a DD Form 220 (Active Duty Report), as specified in paragraph 9 – 1.

f. RC Soldiers completing active duty that results in the award of a military occupational specialty (MOS), even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

g. Soldiers changing their status or component while serving on active duty as outlined

3. Paragraph 8-2 of Army Regulation 635-8 provides for the Rules for reissuing DD Form 214. Once a DD Form 214 has been issued, transition centers do not reissue except for the following reasons: (1) When directed by appellate authority, executive order, or by the Secretary of the Army; (2) When it is determined that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215; (3) Activities listed in paragraph 8-1b and 8-1c may reissue DD Form 214 when circumstances listed in paragraph 8-4 apply. When a DD Form 214 is administratively reissued, enter that fact and the date of such action on the DD Form 214, block 18, unless the authority directing reissuance specifies otherwise. Do not issue DD Form 214 to replace copies or DD Forms 214 lost by the Soldier. If no DD Form 214 is available, issue DA Form 1569 (Transcript of Military Record).

//NOTHING FOLLOWS//