

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 September 2023

DOCKET NUMBER: AR20240001918

APPLICANT REQUESTS: correction of block 12b (Separation Date This Period) of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show 16 May 2013 instead of 6 May 2013 to show he completed 24 months active duty.

APPLICANT'S SUPPORTING DOCUMENT CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record).

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, he lost his mother to breast cancer at the time of his separation from service. He had fallen into depression and gained a lot of weight. This resulted in his release from active duty due to weight control failure. Had this traumatic event not occurred, he would have completed his contract.
3. The applicant completed an enlistment physical examination on 16 December 2010. Evidence contained on his DD Form 2808 (Report of Medical Examination) shows he was 24 pounds over his maximum allowable weight; however, he was 1 percent under his maximum allowable body fat percentage.
4. The applicant enlisted in the Regular Army on 16 May 2011, for a period of 3 years and 21 weeks. He served in military occupational specialty 92Y (Unit Supply Specialist).
5. His separation packet is not available for review; however, his record contains a duly constituted DD Form 214 that shows he was released from active duty on 6 May 2013 after completing 1 year, 11 months and 21 days of net active military service with no lost time. He did not complete his first full term of service. The form shows he was issued a separation code of "LCR," which means he was separated under the provisions of chapter 18, Army Regulation 635-200 (Active Duty Enlisted Administrative Separations),

due to weight control failure. The form further shows his service was characterized as honorable and he was awarded or authorized the:

- National Defense Service Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon

6. Army Regulation 635-5 (Separation Documents) then in effect, established standardized procedures for preparation and distribution of the DD Form 214. The regulation states, in pertinent part, to enter in block 12b the Soldier's transition date. This date may not be the contractual date if Soldier is separated early, voluntarily extends, or is extended to make-up for lost time, or retained on active duty for the convenience of the Government.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered counsel's statement, 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 and available military records, the Board determined there is insufficient evidence to support correction of the applicant's DD Form 214, block 12b (Separation Date This Period) to show 16 May 2013 instead of 6 May 2013. The Board agreed the applicant's DD Form 214 accurately reflects his separation date. As such, the Board denied relief.

2. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

BOARD VOTE:

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:	:	:	GRANT FULL RELIEF
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■	■	■	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.

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 635-5, then in effect, established standardized procedures for preparation and distribution of the DD Form 214. The regulation states, in pertinent part, to enter in block 12b the Soldier's transition date. This date may not be the contractual

date if Soldier is separated early, voluntarily extends, or is extended to make-up for lost time, or retained on active duty for the convenience of the Government.

3. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel. Chapter 18 provides that separation action may not be initiated under this chapter until the Soldier has been given a reasonable opportunity to comply with and meet the body fat standards. If no medical condition exists, initiation of separation proceedings is required for Soldiers who do not make satisfactory progress in the program after a period of six months. The service of Soldiers separated per this chapter will be characterized as honorable.

4. Army Regulation 15-185 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.

//NOTHING FOLLOWS//