

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 October 2024

DOCKET NUMBER: AR20240002090

APPLICANT REQUESTS: Issuance of a DD Form 214 (Certificate of Release or Discharge from Active Duty) to show active duty service from 30 April 2001 to 22 February 2002 and/or corrections to subsequent DD Forms 214 to include this time.

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

- DD Form 149 (Application for Correction of Military Record)
- Army Reserve Personnel Command (ARPC) Orders T-04-106842) - Active Duty (AD) for Training (ADT) and ARPC Orders T-04-106842A01 amendment
- ARPC Order T-0116091 - (ADT) and ARPC Order T-12-118730 (ADT)
- ARPC Form 3924 (Individual Active Duty Certificate of Performance)
- DA Form 1058-R
- Defense Language Institute Certificate of Completion
- Six DD Forms 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:

a. He never received a DD Form 214 for his Reserve active duty (AD) service from 30 April 2001 to 22 February 2002 (299 days). He requests that a DD Form 214 be issued for this period of service, and/or correction of his subsequent DD Forms 214 to show this service for retirement calculation purposes.

b. In 2006, as a Department of Defense civilian, he bought back all of his military service, including the 299 days described above. Now the Office of Personnel Management will not credit him with the active duty time in question, because he never received a DD Form 214 for the period. He believes this omission was likely because he

served on multiple sets of orders with changing assignments throughout the period that occurred just before and just after the 9/11 attacks.

3. The applicant enlisted in the Regular Army on 5 August 1987 and completed training with award of the military occupational specialties of 98G (Electronic Warfare/Signal Intelligence Voice Interceptor) and 25B (Integrated Systems Processing Specialist).

4. On 1 June 1992 the applicant was honorably released from active duty for the convenience of the government under the Early Transition Program in the grade of E-5. He was issued a DD Form 214 for Regular Army (enlisted) active duty (AD) for the period 5 August 1987-1 June 1992, reflective of 4 years, 9 months, and 27 days of active service.

5. He enlisted in the California Army National Guard on 9 April 1993 for 3 years in the grade of E-5.

6. He entered active duty on 23 August 1993 and completed 47 weeks of language training. He was honorably released from active duty on 27 August 1994. His DD Form 214 for this period shows 1 year and 5 days of active service.

7. The applicant was appointed as a Reserve commissioned officer in the ARNG on 26 September 1996.

8. The applicant entered active duty on 16 March 1997 and completed the Intelligence Officer Tactical Course. He was honorably released from active duty on 23 July 1997. His DD Form 214 for this period shows he completed 5 months and 8 days of active service; with 5 years, 2 months, and 10 days of prior active service; and 3 years, 9 months, and 9 days of prior inactive service.

9. The applicant provided the following documentation that is not included in the available iPERMS record:

c. ARPC Orders T-04-106842 show orders for 90 days of active duty for training (ADT) commencing 30 April 2001, reporting to the Defense Intelligence Agency (DIA). Authority 10 USC 12301 (D) ADT W. [Note: 10 USC 12301(d) 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].

d. ARPC Order T-04-106842A01, amended the ADT to a period of 154 days.

e. ARPC Form 3924, shows completion of ADT service for the period 30 April 2001 - 30 September 2001, 185 days.

f. ARPC Order T-09116091, shows orders for 179 days ADT, commencing 1 October 2001. Authority 10 USC section 1230 I (D) ADT W

g. ARPC Order T-112118730, shows orders for 60 days ADT commencing 9 December 2001. Report to Defense Logistics Agency. Authority 10 USC 12301 (D) ADT W.

h. ARPC Form 3924, shows completion of 154 day of AD service for the period 9 December 2001 to 23 February 2002.

i. DA Form 1058-R, dated 30 December 2002 (page 2 only) reporting the applicant's periods of training duty as:

- 20010430 to 20010930 - 154 days - ADT
- 20011001 to 20011208 - 69 days - ADT
- 20011209 to 20020223 - 77 days -Defense Mobilization -language training
- 20020201 to 20030115 - 321 days - Defense Mobilization - Support of Operation Enduring Freedom

j. DLI diploma for a 10-week course ending 21 February 2002.

k. DD Form 214 for U.S. Army Reserve (USAR) AD service from 1 March 2002 to 26 February 2003 service in support of Operation Enduring Freedom. It shows 1 years of net active service; 6 years, 2 months, and 10 days of prior active service; and 3 years, 9 months, and 9 days of prior inactive service.

l. DD Form 214 for USAR AD service from 21 July 2003 to 26 November 2003. It shows 4 months and 6 days of net active service; 9 years and 2 days of prior active service; and 6 years, 11 months, and 14 days of prior inactive service.

m. DD Form 214 (copy 1) for USAR AD service from 8 December 2003 to 7 March 2005 for service in Operation Noble Eagle with service in Iraq from 11 August 2001 to 29 January 2005 and ADT from 8 December 2003 to 10 August 2004. This DD Form 214 shows he had 1 year, 3 months, and 7 days of net active service; 9 years, 4 months, and 8 days of prior active service; and 6 years, 11 months, and 25 days of prior of prior inactive service.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant provides several sets of orders and/or amendments ordering him to active

duty in accordance with 10 USC 12301(d) from 30 April 2001 to 30 September 2001 (154 days), 1 October 2001 to 8 December 2001 (69 days) and from 9 December 2001 to 23 February 2002 (77 days), with no break in service. Although there are no orders for his release from active duty and no out-processing forms, and although there are no Leave and Earnings Statements to confirm exact dates he served on active duty, the Board determined he should have been issued a DD Form 214 for the period 30 April 2001 to 23 February 2002. Once issued, his last DD Form 214 (for the period 8 December 2003 to 7 March 2005) should also be corrected to capture his correct prior active service.

BOARD VOTE:

Mr 1	Mr 2	Mr 3
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GRANT FULL RELIEF



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GRANT PARTIAL RELIEF

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GRANT FORMAL HEARING

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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:

- issuing the applicant a DD Form 214 for the period 30 April 2001 to 23 February 2002
- correcting the applicant's DD Form 214 for the period 8 December 2003 through 7 March 2005 to accurately capture his prior active service

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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 635-5 (Separation Documents) prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214. The regulation states a DD Form 214 will be prepared for Reserve component (RC) Soldiers upon

- completing 90 days or more of continuous active duty for training (ADT)
- ARNGUS soldiers separated from title 32, U.S. Code AGR status to enter title 10 U.S. Code AGR or other active duty status
- ARNGUS and USAR soldiers mobilized under sections 12301(a), 12302, or 12304, Title 10, U.S. Code and ARNG soldiers called into Federal service under chapter 15, or section 12406, Title 10, U.S. Code, regardless of length of mobilization, when transitioned from active duty

//NOTHING FOLLOWS//