

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 December 2024

DOCKET NUMBER: AR20240002641

APPLICANT REQUESTS: a personal appearance hearing before the Board and correction of his record by -

a. publishing active duty bridging orders to link his periods of service between 30 August 2019 and 23 February 2022 into one continuous period of active duty service under the provisions of Title 10, section 12302 (h) active recovery duty status, by including the following gaps.

- from 19 September 2020 to 12 November 2020; a period of 1 month and 25 days
- from 18 December 2020 to 24 February 2021; a period of 3 months and 12 days.

b. voiding his DD Forms 214 ending 18 September 2020 and 23 February 2023 and issuing him a new DD Form 214 covering the period 30 August 2020 through 23 February 2023.

c. paying him any pay and allowances he is due as a result of these correction.

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

- DD Form 149 (Application for Correction of Military Record)
- 24 pages of Medical Progress Notes
- Orders: MM-0198-00019, Headquarters, U.S. Army Medical Command, 16 July 2020
- DD Form 214, 18 September 2020
- Memorandum, National Guard Bureau (NGB), 10 June 2021
- Order: 0004706376.00, [REDACTED] Army National Guard ([REDACTED] NG), 11 May 2023
- DD Form 214, 23 February 2022
- Order: 0004706379.00, [REDACTED] NG, 11 May 2023
- NGB Form 23A (Army National Guard Current Annual Statement), 27 February 2023
- Department of the Army Mobilization Processing System (DAMPS) Audit
- Memorandum, [REDACTED] NG Adjutant General, 26 February 2024

FACTS:

1. The applicant states -

a. he should have received active duty bridging orders from 19 September 2020 through 12 November 2020 while he was participating in the Medical Retention Process-Evaluation (MRP-E) leading up to his switch to the Reserve Component Managed Care - Mobilized (RCMC-M) for Reserve Component Warriors in transition Medical Retention.

b. he was involuntarily medically separated from the [REDACTED] Army National Guard (ARNG) and retired on the Permanently Disabled Retired List (PDRL). If these orders had been correct, he would have one continuous DD Form 214 that does not end his total Title 10 duty until his exit from Reserve Component Warrior in transition Medical Retention with an end date of 23 February 2022.

c. he was a wounded warrior who was not paid from 19 September 2020 through 12 November 2020 nor from 18 December 2020 through 24 February 2021. His noted DD Forms 214 are now incorrect because they do not reflect 4.27 months of what should have been continuous service under Title 10, section 12302 (h) active recovery duty status.

d. he references ABCMR Docket Number AR20220011892, dated 9 May 2023, and notes his case has similar case facts and a similar disposition.

2. The applicant enlisted in the Army National Guard (ARNG) on 25 February 2010.

3. Orders: 29-242-0005, published by the [REDACTED] ARNG, on 30 August 2019, ordered the applicant to active duty as a member of his Reserve unit. He was ordered to report to his home station on 30 August 2019, and to his mobilization station on 1 September 2019. He was ordered to active duty for a period of 382 days (until 15 September 2020).

4. Orders: BL-284-0009, published by U.S. Army Installation Management Command, Fort Bliss, TX, on 11 October 2019, ordered him to active duty in support of Operation Enduring Freedom (Spartan Shield). He deployed to Kuwait with follow-on service in Saudi Arabia on or about 14 October 2019. On or about 7 July 2020, the applicant departed Kuwait and returned to the U.S.

5. Orders Number MM-0198-00019, published by Headquarters, U.S. Army Medical Command, Fort Sam Houston, TX, on 16 July 2020, show the applicant was ordered to active duty for 60 days, effective 21 July 2020, to participate in the Reserve Component Warriors in Transition Medical Retention Processing Program for completion of a

medical evaluation. He remained in this program until on or about 18 September 2020 when he was released from active duty (REFRAD).

6. His DD Form 214 shows he was ordered to active duty in support of Operation Spartan Shield. He entered active duty on 30 August 2019 to was released from active duty on 18 September 2020. He completed 1 year, 1 month, and 17 days of net active service during the period covered. The Remarks section of his DD Form 214 notes he was retained under the provisions of Title 10, USA, Section 12301(h) - Reserve Component Warriors in Transition Medical.

7. There is a gap in active federal service under the provisions of Title 10 USC, from 19 September 2020 to 12 November 2020; a period of 1 month and 25 days.

8. Orders: NG-0322-00001, published by the National Guard Bureau (NGB), and amendment Orders: NG-0322-00001A01, both dated 17 November 2020, ordered the applicant to active duty under the provisions of Title 10 USC, Section 12301(H), to participate in Reserve Component Managed Care-Mobilization for Managed Medical Care, from 13 November 2020 to 17 December 2020; a period of 1 month and 5 days. He was not issued a DD Form 214 at the end of this period because it was less than 90 days in length.

9. There is a gap in active federal service under the provisions of Title 10 USC, from 18 December 2020 to 24 February 2021; a period of 3 months and 12 days.

10. Orders: NG-1056-00008, published by the NGB, on 25 February 2021, ordered the applicant to active duty active duty, under the provisions of Title 10 USC, Section 12301(H), to participate in Reserve Component Managed Care-Mobilization for Managed Medical Care from on or about 25 February 2021 to on or about 15 July 2021.

11. Orders: MM-1197-00005, published by Headquarters, U.S. Army Medical Command, Fort Sam Houston, TX, on 16 July 2021 retained the applicant on active duty under the provisions of Title 10 USC, Section 12301(H), to participate in Reserve Component Disability Evaluation System (DES) related medical appointments from 16 July 2021 to 10 January 2022.

12. Orders: MM-1197-00005A01, published by Headquarters, U.S. Army Medical Command, Fort Sam Houston, TX, on 13 December 2021, amended Orders: MM-1197-00005, published by Headquarters, U.S. Army Medical Command, Fort Sam Houston, TX, on 16 July 2021, by extending end date of the tour from 10 January 2022 to 23 February 2022.

13. A Memorandum from the Chief, Personnel Division, NGB, 10 June 2021, approved the applicant's injury as in the line of duty.

14. On 11 May 2023, the ■■■■ NG issued Order 0004706379.00 assigning the applicant to the Permanent Disability Retirement List, effective 24 February 2022.
15. Order 0004706376.00, ■■■■ NG, 11 May 2023, transferred the applicant to the PDRL effective 23 February 2022.
16. His DD Form 214 shows he was ordered to active duty to participate in Reserve Component Managed Care-Mobilization for Medical Care and entered active duty on 25 February 2021 and retired honorably on 23 February 2022.
17. Order 0004706379.00, ■■■■ NG, 11 May 2023, initiated his permanent change of assignment to the PDRL due to mandatory retirement effective 24 February 2022.
18. NGB Form 23A, 27 February 2023 and a DAMPS Audit show a gap of 4.27 months.
19. A memorandum from the ■■■■ NG Adjutant General, 26 February 2024, requests the Board expedite the applicant's medical benefits, pay and allowances.
20. A review of the applicant's NGB Form 23A (ARNG Current Annual Statement) shows he was mobilized from 30 August 2019 – 24 February 2020 and placed on active duty again from 25 February 2020 – 18 September 2020. He was mobilized once again from 13 November 2020 – 17 December 2020.
21. The applicant provides 24 pages of Medical Progress Notes, which have been provided to the Board to review in full.
22. Army Regulation 15-185 (ABCMR) states an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation and the short period of time between periods of military service, the Board concluded the [REDACTED] NG determined it errored in separating the applicant prior to concluding medical processing. Therefore, the Board recommended correcting the applicant's record to show continuous military service from 30 August 2020 to 23 February 2023 by voiding all separation orders and/or DD Form 214 and awarding constructive service credit for the period from 19 September 2020 to 12 November 2020; a period of 1 month and 25 days; as well as from 18 December 2020 to 24 February 2021; a period of 3 months and 12 days.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	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 Army records of the individual concerned be corrected to show continuous military service from 30 August 2020 to 23 February 2023 by voiding all separation orders and/or DD Form 214 and awarding constructive service credit for the period from 19 September 2020 to 12 November 2020; a period of 1 month and 25 days; as well as from 18 December 2020 to 24 February 2021; a period of 3 months and 12 days, and paying all appropriate back pay and allowance for the awarded constructive service credit .

3/31/2025

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. Army Regulation 635-8 (Separation Processing) provides that 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 REFRAD, retirement, or discharge.

a. When separation is ordered, the separation approval documents must be present for transition processing to occur. Source documents, as listed below, must be present in a Soldier's record in order to complete the DD Form 214. Source documents will consist of:

- Service Member's Record Brief
- Separation approval documents
- Separation order
- Any other document authorized for filing in the Army Military Human Resources Record

b. DD Form 214, Item 12b (Separation Date This Period) will contain the Soldier's transition date. This date may not be the contractual date if the Soldier was separated

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

2. Army Regulation 600-8-105 (Military Orders) provides that orders are published to order individuals onto active duty or change the status of military personnel on active duty. Only the organization that published the original order may amend, rescind, or revoke the order. When there is no evidence of fraud or obvious error and the Soldier received actual or constructive delivery, orders discharging a Soldier from the service will not be revoked after the effective date of discharge unless the revocation is a written confirmation of verbal orders issued before the effective date of discharge. An order may be corrected by the organization that published the original order to show the true state of affairs existing at the time the original order was published. Orders may only be changed to reflect facts that existed when the original order was published.

3. 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 may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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. 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//