

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 November 2024

DOCKET NUMBER: AR20240003002

APPLICANT REQUESTS: in effect,

a. correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 11 September 2020 to reflect continuous service through 26 October 2021.

b. Active duty orders published for the period 12 September 2020 through 12 November 2020 and from 11 May 2021 through 23 August 2021.

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

- DD Form 149 (Application for Correction of Military Record)
- Mobilization Spreadsheet
- Orders: 29-246-0014, 3 September 2019
- Orders: 29-246-0014 (A1), 3 September 2019
- DA Form 2173 (Statement of Medical Examination and Duty Status), 19 February 2020
- Orders: 29-246-0014 (A2), 17 March 2020
- Orders: 29-246-0014 (A3), 7 June 2020
- Orders: MM-0192-00001, 10 July 2020
- Orders: 29-246-0014 (A4), 5 September 2020
- DD Form 214, 11 September 2020
- Orders: 29-246-0014 (A5), 5 October 2020
- Orders: NG-0318-00011, 13 November 2020
- Orders: MM-1235-00006, 23 August 2021
- Orders: MM-1235-00006A01, 27 September 2021
- DD Form 149 (Informal Physical Evaluation Board (PEB) Proceedings, 28 November 2023
- Orders D 346-17, 12 December 2023
- Orders Number 0006997242.00, 16 January 2024
- Army National Guard (ARNG) Current Annual Statement, 19 January 2024
- DA Form 5016 (Retirement Accounting Statement), 28 February 2024

FACTS:

1. The applicant states:

a. He is requesting active-duty orders from 12 September 2020 through 12 November 2020 and again from 9 May 2021 through 23 August 2021 for either Medical Retention Processing (MRP) end date extension or earlier Reserve Component Managed Care - Mobilization (RCMC-M) start date for orders gap relief. Orders gaps represent breaks in medical coverage or coverage under Transitional Assistance Management Program (TAMP) 180, which never should have been triggered to start up.

b. He was not paid, did not accrue leave, or have accurately sponsored benefits from 12 September 2020 through 12 November 2020 and again from 9 May 2021 through 23 August 2021 due to order gap in between MRP and RCMC-M orders as a wounded warrior. His last release from active duty (REFRAD) DD Form 214 from Operation Spartan Shield requires a DD Form 215 (Correction to DD Form 214). He is missing a minimum of 5.63 months (169 days) of what should have been continuous active duty. He is currently medically retired in the retired Reserve. If corrected, he should have one continuous DD Form 214 with an end date of 26 October 2021.

2. The applicant provides the following:

a. A spreadsheet which shows the dates the applicant was mobilized.

b. Orders Number 29-246-0014, issued by the State of North Carolina, Office of the Adjutant General, Raleigh, NC, on 3 September 2019, ordered the applicant to active duty for the purpose of activation in support of Operation Enduring Freedom (Spartan Shield), with a report date of 8 September 2019, for a period of 373 days.

c. Orders Number 29-246-0014 (A1), dated 3 September 2019, show an amended accounting code.

d. A Statement of Medical Examination and Duty Status dated 19 February 2020, which shows the applicant injured his left knee on 17 December 2019 while on active duty at Camp Beurhing, Kuwait.

e. Orders Number 29-246-0014 (A2), dated 17 March 2020, show an amended period of active duty from 373 days to 403 days.

f. Orders Number 29-246-0014 (A3), dated 7 June 2020, show an amended period of active duty from 403 days to 456 days.

g. Orders MM-0192-00001, issued by Headquarters, U.S. Army Medical Command, Fort Sam Houston, TX, on 10 July 2020, retained the applicant on active duty under the provision of Title 10, U.S. Code, section 12301(h), for a period of 60 days, to participate in the Reserve Component Warriors in Transition Medical Retention Processing Program for completion of medical evaluation, with a report date of 14 July 2020 and an end date of 11 September 2020. The additional instructions state this was a consecutive assignment with no break in service.

h. Orders Number 29-246-0014 (A4), dated 5 September 2020, show an amended accounting code.

i. DD Form 214 shows he was released from active duty on 11 September 2020.

j. Orders Number 29-246-0014 (A5), dated 5 October 2020, show an amended period of active duty from 456 days to 310 days.

k. Orders NG-0318-00011, issued by the ARNG, Arlington, VA, on 13 November 2020, ordered the applicant to active duty under the provision of Title 10, U.S. Code, section 12301(h), to participate in the RCMC–M for managed medical care, for a period of 179 days. His report date was 13 November 2020 and end date was 10 May 2021. The additional instructions show the State Military Personnel Management Office will prepare release orders and DD Form 214 or DD Form 220 (Active Duty Report) upon completion of active duty.

l. Orders MM-1235-00006, issued by Headquarters, U.S. Army Medical Command, Fort Sam Houston, TX on 23 August 2021, retained the applicant on active duty for the purpose of participating in the Reserve Component Soldier Transition Medical Retention Processing Program for completion of an initial medical evaluation, for a period of 179 days, with a report date of 24 August 2021 and end date of 18 February 2022. The additional instructions show this was a consecutive assignment with no break in service.

m. Orders MM-1235-00006A01, dated 27 September 2021, show an amended purpose type from initial to REFRAD, an amended end date from 18 February 2022 to 26 October 2021, and an amended tour length from 179 days to 64 days.

n. A DA Form 199 shows on 28 November 2023, an informal PEB convened to consider the applicant's physical condition. The PEB found the applicant physically unfit due to left knee instability and status-post anterior cruciate ligament reconstruction, and recommended his disposition be permanent disability retirement.

o. Orders D 346-17, issued by Headquarters, U.S. Army Physical Disability Agency, Fort Sam Houston, TX, released the applicant from assignment and duty because of

physical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability, effective 11 January 2024.

p. Orders Number 0006997242.00, issued by the NCARNG on 16 January 2024, transferred the applicant to the Permanent Disability Retired List, effective 12 January 2024.

q. NGB Form 23A, which shows the applicant mobilized from 8 September 2019 to 11 September 2020 and he was placed on active duty again from 13 November 2020 to 13 May 2021.

3. A review of the applicant's service record shows:

a. The applicant enlisted in the ARNG on 18 May 2011.

b. On 3 September 2019, the applicant was ordered to active duty in support of Operation Enduring Freedom (Spartan Shield), with a report date of 8 September 2019.

c. On or about 24 October 2019, the applicant deployed to Kuwait with follow-on service in Saudi Arabia.

d. On 11 September 2020, he was released from active duty for completion of required active service. His DD Form 214 shows he served 1 year and 4 months of net active service this period. This form also shows in block 18 (Remarks):

(1) Service in Kuwait 25 October 2019 – 20 February 2020

(2) Service in Saudi Arabia 21 February 2020 – 4 May 2020

(3) Service in Kuwait 5 May 2020 – 20 June 2020

(4) He was retained under the provision of section 12301(h), Title 10, Reserve Component Warriors in Transition Medical Retention Processing Program for completion of medical evaluation from 14 July 2020 – 11 September 2020.

(5) Post Deployment/Mobilization Respite Absence Leave: 12 July 2020 – 24 July 2020

e. DD Form 220, dated 4 October 2021, shows per Orders Number MM-1235-00006, dated 23 August 2021, the applicant entered active duty on 24 August 2021 for the purpose of participating in the Reserve Component Soldier in Transition Medical Retention Processing Program for completion of medical evaluation. He departed from his duty station to home on 26 October 2021. His length of tour was 64 days.

- f. He was transferred to the Permanent Disability Retired List on 12 January 2024.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered 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 sufficient evidence to support correction of the applicant's DD Form 214 for the period ending 11 September 2020 to show continuous active-service for the period of 12 September 2020 through 12 November 2020 and from 11 May 2021 through 23 August 2021 for either Medical Retention Processing (MRP) end date extension or earlier Reserve Component Managed Care - Mobilization (RCMC-M) start date for orders gap relief.

2. The Board determined the applicant was erroneously triggered orders gaps which represents a break in medical coverage or coverage under Transitional Assistance Management Program (TAMP) 180. Based on the applicant's orders and preponderance of evidence, the Board granted relief to correct the applicant's DD Form 214.

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 the Army records of the individual concerned be corrected by amending the applicant's DD Form 214 for the period ending 11 September 2020 to show in block 18 (Remarks) continuous active service for the period of 12 September 2020 through 12 November 2020 and from 11 May 2021 through 23 August 2021 for either Medical Retention Processing (MRP) end date extension or earlier Reserve Component Managed Care - Mobilization (RCMC-M) start date for orders gap relief.

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 and Documents) 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. Use the following documents when preparing a DD Form 214:

- Servicemember's record brief (computer generated)
- Separation approval documents, if applicable
- Separation order
- Any other document authorized for filing in the Army Military Human Resources Record

b. DD Form 214, block 12b (Separation Date This Period) list 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. Title 10, U.S. Code, section 12301(h), Reserve components generally, states:

a. When authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty—

- to receive authorized medical care.
- to be medically evaluated for disability or other purposes; or
- to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member.

b. A member ordered to active duty under this subsection may, with the member's consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law.

c. A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to active duty under this subsection only with the consent of the Governor or other appropriate authority of the State concerned.

4. Army Regulation 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 begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. 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.

//NOTHING FOLLOWS//