

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20240003534

APPLICANT REQUESTS:

- correction of his records to show:
 - he entered active duty on 14 August 1972
 - he served during the Vietnam War
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Report of Separation from Active Duty), for the period ending 13 July 1979

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 his service dates should reflect entry in the Regular Army as 14 August 1972. He reenlisted on 14 August 1976 [sic], and that is the date on his DD Form 214. He served during the Vietnam War from 1972 to 1975 and that needs to be reflected on his DD Form 214.
3. In reference to the applicant's request to show he entered active duty on 14 August 1972, his service records show he was issued a DD Form 214 for the period 14 August 1972 to 13 June 1975. The DD Form 214 was issued for his immediate reenlistment on 14 July 1975. The effective date on the DD Form 214 should read 13 July 1975 vice 13 June 1975. This portion of his request will be administratively corrected. The Board will consider his request to show he served during the Vietnam War.

4. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment Contract - Armed Forces of the United States) shows he enlisted in the Regular Army on 14 August 1972.

b. DD Form 214 shows he was honorably discharged for immediate reenlistment. His term of service was from 14 August 1972 to 13 June 1975. *This effective date will be administratively corrected.*

c. DD Form 4 (Enlistment Contract - Armed Forces of the United States) shows he reenlisted in the Regular Army on 14 July 1975.

d. DA Form 2-1 (Personnel Qualification Record – Part II) shows in item 8 (Overseas Service) he had overseas duty in Panama from 27 October 1976 through 6 October 1978. In item 35 (Record of Assignments) shows he had duty in Fort Bliss, Texas; Panama; and White Sands Missile Range, New Mexico. There is no documentation showing he had service in the Republic of Vietnam.

e. DD Form 214 shows he was honorably discharged from the Regular Army on 13 July 1979. He had completed 4 years of active service this period with 2 years and 11 months of prior active duty service. He was awarded or authorized the National Defense Service Medal, the Army Good Conduct Medal (2nd Award), and the Expert Marksmanship Qualification Badge with Rifle Bar (M-16).

5. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. 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.

BOARD DISCUSSION:

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 the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation.

a. The Board noted the applicant's contention of his service during the Vietnam war; however, found that although he served from 1972 to 1975, there is no evidence to support he served in the Republic of Vietnam or that his service directly supported the war in Vietnam. Therefore, the Board determined there was no error or injustice to support amending his record.

b. The Board noted the applicant's request to amend his records to show he entered active duty on 14 August 1972; however, found his record contains a DD Form

214 for the period 14 August 1972 through 13 June 1975. The Board also noted and concurred with the administrative notes below in correcting his DD Forms 214.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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.

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.

ADMINISTRATIVE NOTE(S):

Correct his DD Form 214 for the period of 14 August 1972 through 13 June 1975 by changing item 9d (Effective Date) to read 13 July 1975 vice 13 June 1975, and item 18(a) (Net Service this Period) to read 3 years vice 2 years, 11 months.

Correct his DD Form 214 for the period ending 13 July 1979 by correcting item 18(b) (Prior Active Service) to read 3 years vice 2 years 11 months; 18(c) (Total Active Service) to read 7 years vice 6 years, 11 months; and 18(e) (Total Service for Pay) to read 7 years vice 6 years, 11 months.

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 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 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.

3. Army Regulation 635-5 (Personnel Separations, Separation Documents), in effect at the time states for foreign service enter total active duty outside continental limits of the United States for the period covered by the DD Form 214 and the last overseas theater in which service was performed e.g. "Foreign and/or Sea Service (USAREUR)."

4. Army Regulation 635-8 (Separation Processing and Documents) prescribes policy and procedural guidance relating to transition management. It consolidates the policies, principles of support, and standards of service regarding processing personnel for transition. Paragraph 5-6r provides: for all Soldiers, list any/all outside the continental U.S. deployments completed during the period of the DD Form 214. Include the statement, "SERVICE IN (NAME OF COUNTRY DEPLOYED) FROM (inclusive dates)."

//NOTHING FOLLOWS//