

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 January 2025

DOCKET NUMBER: AR20240003669

APPLICANT REQUESTS:

- Active duty "bridging" orders published for the period "15 November 2020 through 18 December 2020"
- Correction of DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending on 14 November 2020 to show continuous service

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

- DD Form 149 (Application for Correction of Military Record)
- Orders Number 29-176-0041
- Orders Number 29-176-0041 (A1)
- Orders Number 29-176-0041 (A2)
- Orders Number 29-176-0041 (A3)
- Orders Number 29-176-0041 (A4)
- Orders Number MM-0223-00012
- Memorandum, Subject: Line of Duty (LOD) Determination
- Orders Number MM-0223-00012A01
- Orders Number NG-0353-00003
- Orders Number NG-0353-00003A01
- DA Form 2173 (Statement of Medical Examination and Duty Status)
- Missing time document
- Orders Number 0001589742.00
- National Guard Bureau (NGB) Form 23A (Army National Guard Current Annual Statement)
- DA Form 199 (Informal Physical Evaluation Board Proceedings (PEB))
- Orders Number D 071-13
- DD Form 214, ending on 14 November 2020
- Memorandum, Subject: Permanent Physical Disability Retirement
- Memorandum, Subject: Request to Expedite Army Board for Correction of Military Records in the Restoration of Medical Benefits, Pay and Allowances

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 he is requesting an end date extension of Reserve Component Managed Care – Mobilization (RCMC-M) orders gap relief. The gap represents breaks in medical coverage or coverage under Transitional Assistance Management Program 180 which never should have been triggered to start up less a gap in continuity orders. Reference ABCMR Docket Number AR20220011892, dated 9 May 2023. He was not paid, did not accrue leave or have accurately sponsored benefits from 15 November 2020 through 18 December 2020 due to the order gap between Medical Retention Processing (MRP) and RCMC-M orders as a wounded warrior. His last release from active duty DD Form 214 from OSS will need a DD Form 215 (Correction to DD Form 214) if relief is granted. His is missing 34 days of what should have been continuous Title 10 Active Duty (AD), 12301(h) recovery status in accordance with Department of Defense Instruction (DoDI) 1241.01 ((Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements). He is currently serving as a traditional M-Day Soldier. If corrected he would have a continuous service DD Form 214 with end date 14 June 2021 fixed via a DD Form 215. He is scheduled for a mandatory permanent physical disability retirement in accordance with the PEB results dated 6 March 2024 on 10 April 2024.
  
3. A review of the applicant's official record shows the following:
  - a. Having had prior enlisted service in the Army National Guard (ARNG), on 8 May 2009, the applicant was appointed as a Reserve commissioned officer and executed an oath of office.
  
  - b. On 2 November 2009, the National Guard Bureau (NGB) issued Orders Number 264 extending Federal recognition for the applicant's initial appointment in the ARNG.
  
  - c. On 25 June 2019, Orders Number 29-176-0041 issued by the State of NC, Office of the Adjutant General ordered the applicant to active duty in support of Operation Enduring Freedom (Spartan Shield) for a period of 400 days, effective 12 August 2019, under the authority of Title 10, USC, section 12302.
  
  - d. On 23 September 2020, the applicant was honorably released from active duty and returned to his ARNG unit. He completed 1 year, 1 month, and 12 days of net active service.

e. On 10 August 2020, Orders Number MM-0223-00012 issued by Headquarters, U.S. Army Medical Command (MEDCOM) retained the applicant on active duty to participate in MRP for completion of medical evaluation, effective 17 August 2020 for a period of 60 days ending on 15 October 2020.

f. On 29 September 2020, by memorandum, the applicant's DD Form 214, ending on 23 September 2020, was voided due to him not demobilizing but going through the Soldier Readiness Unit.

g. On 23 October 2020, Orders Number MM-0223-00012A01 issued by Headquarters, MEDCOM, amended Orders Number MM-0223-00012 by changing the end date from 15 October 2020 to 14 November 2020, 90 days vice 60 days.

h. On 14 November 2020, the applicant was honorably released from active duty by reason of completion of required active service. He completed 1 year, 3 months, and 3 days. Item 18 (Remarks) shows "retained under the provisions of Title 10, USC, section 12301 (H), MRP for completion of medical evaluation.

i. On 18 December 2020, Orders Number NG-0353-00003 issued by the NGB ordered the applicant to active duty under the provisions of Title 10, USC, section 12301 (H), effective 18 December 2020, for a period of 90 days to participate in RCMC-M, ending on 17 March 2021.

j. On 17 February 2021, Orders Number NG-0353-00003A01 issued by the NGB amended Orders Number NG-0353-00003 to change the applicant's end date from 17 March 2021 to 14 June 2021, 179 days vice 90 days.

k. On 19 September 2022, my memorandum, the applicant was notified he met the requirements to be eligible for retired pay at age 60.

l. On 6 March 2024, a PEB convened finding the applicant physically unfit and recommended his disposition be permanent disability retirement for post-traumatic stress disorder with an onset while on active duty orders on 11 June 2021.

m. On 11 March 2024, Orders Number D 071-13 issued by the U.S. Army Physical Disability Agency, the applicant was placed on the retired list by reason of permanent physical disability, effective 11 April 2024.

n. On 12 April 2024, Orders Number 153 issued by the NGB, the applicant's Federal recognition was withdrawn, and he was placed in the U.S. Army Reserve Control Group (Retired Reserve).

4. The applicant provides:

- a. Memorandum, Subject: LOD Determination, dated 8 October 2020, which shows the applicant's LOD for Right Shoulder Acromioclavicular Joint Sprain and Right Shoulder Bursitis that occurred during Operation Enduring Freedom (Spartan Shield) was approved as LOD.
- b. DA Form 2173 showing the applicant injury (Right Shoulder Acromioclavicular Joint Sprain, Left Shoulder Bursitis, impingement syndrome of the right shoulder) occurred on 15 February 2020 in Kuwait, and the injury was considered LOD.
- c. Missing time document showing he had missed time from 14 November 2020 through 18 December 2020, totaling 34 days.
- d. Orders Number 0001589742.00 showing the applicant was ordered on a permanent change of station on 1 January 2022.
- e. NGB form 23A which shows for the retirement year ending 14 November 2020 he was an ARNG mobilized member. And for retirement year beginning on 18 December 2020 and ending on 16 December 2020 he was again an ARNG mobilized member.
- f. Memorandum, Subject: Permanent Physical Disability Retirement, which notified the applicant he was recommended for permanent physical disability.
- g. NCARNG Memorandum - Subject: Request to Expedite ABCMR in the Restoration of Medical Benefits, Pay and Allowances, dated 26 February 2024, wherein, the NCARNG AG states, in part:

(1) Request to expedite ABCMR action in the restoration of medical benefits, pay and allowances for Service Members of the NCARNG who mobilized with the 30th Armored Brigade Combat Team in support of Operation Enduring Freedom (Spartan Shield).

(2) Upon Release from Active Duty, several service members experienced a break in service in their active-duty orders, which resulted in a lapse of medical care and suspension of pay and allowances. This created severe hardship and duress to the service members and their families, due to incurring out of pocket costs for medical care, coupled with loss of pay and benefits. In some cases, medical care was not provided at all. Regardless of the mechanism of failure, it is inappropriate for the service members and their families to bear the brunt of inadequate planning and administrative shortfalls from either human or human resources systems errors.

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 information outlined in the NC Joint Force HQs memorandum, dated 26 February 2024, the Board concluded there sufficient evidence to show the applicant was erroneously separated prior to completing medical processing. As a result, the Board recommended granting the requested relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:XXX	:XXX	:XXX	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 and Army National Guard records of the individual concerned be corrected by:

- voiding the applicant’s DD Form 214 for the period ending 23 September 2020
- amending Orders Number MM-0223-00012, Headquarters U.S. Army Medical Command, dated 10 August 2020, to show 12 August 2019 through 18 December 2020
- entitlement to back pay and allowances as a result of this correction
- correction of his NGB Form 23A with applicable time
- amendment of his DD Form 214, for the period ending 14 November 2020 to show in:
  - item 12b: 18 December 2020
  - item 12c: 1 year, 4 months, and 7 days

//SIGNED//  
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 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. Title 10, USC, 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 (AR) 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. 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

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.

3. AR 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.

4. Title 10 United States Code, section 12301 - Reserve components generally, (h)  
(1) 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

(2) 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.

(3) 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.

//NOTHING FOLLOWS//