

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 December 2024

DOCKET NUMBER: AR20240003770

APPLICANT REQUESTS:

- correction of his records to show the spelling of his first name as listed on his Social Security Administration card
- upgrade of his character of service from uncharacterized to honorable
- 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
- Social Security Administration Card

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's request for correction of his DD Form 214 to show the correct spelling of his first name will be addressed through an administrative correction without action by the Board. The applicant's Official Military Personnel File contains numerous enlistment documents, official statements, medical and separation documents. His first name is listed as he requests on one or more documents; however, the vast majority of his records contain the contested first name. The applicant also authenticated these documents with a signature bearing the contested first name as well as the name he requests.
3. The applicant states his name is misspelled throughout his military records and he feels he is deserving of an honorable discharge. He claims he never spoke to the battalion commander which is one of the requirements. He further claims he was sick with bronchitis and had no idea that he was getting separated.

4. The applicant enlisted in the Regular Army on 14 November 1997. His DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) lists the contested first name.
5. The applicant provides a copy of his Social Security Administration card which lists the first name as he requests.
6. He was assigned to Company D, 1st Battalion, 28th Infantry Regiment, 1st Basic Combat Training Brigade, Fort Jackson, SC. On 21 November 1997, the applicant received his initial counseling regarding the standards required to graduate from Basic Combat Training to include passing the Basic Physical Fitness Test.
7. On 24 November 1997, 2 December 1997, 7 January 1998, and 17 January 1998, he failed to meet the minimum standards for the Diagnostic Readiness Test. The applicant was counseled accordingly following each failure.
8. On 22 January 1998, he was counseled and recommended for the Newstart Program due to failing to pass 3 diagnostic Army Physical Fitness Tests (APFT) as well as failing to pass the end of cycle APFT. The applicant requested to restart.
9. On 27 January 1998, the applicant was counseled by his immediate commander who, after battalion review, recognized that the applicant had shown no improvement in meeting the APFT standards and was denied the new start program. Therefore, he was recommended for separation in accordance with Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) for not meeting the APFT standards and lack of motivation.
10. On 30 January 1998, the applicant acknowledged receipt of the separation notification in accordance with Army Regulation 635-200, chapter 11. He elected to consult with counsel and submitted a statement in his own behalf. He acknowledged that he understood that if the recommendation for separation was approved, he would receive an uncharacterized entry-level discharge.
11. On 30 January 1998, the separation authority approved the applicant's discharge.
12. On 4 February 1998, the applicant was discharged in accordance with Army Regulation 635-200, chapter 11, by reason of entry-level performance and conduct with an uncharacterized characterization of service. The DD Form 214 he was issued at the time confirms he completed 2 months and 21 days of creditable active service.
13. There is no indication he applied to the Army Discharge Review Board for a change of his discharge within that board's 15-year statute of limitations.

BOARD DISCUSSION:

1. The Board determined 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.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant failed several APFT's during initial entry training. As a result, his chain of command initiated separation action against him for entry level performance and conduct. He did not complete initial entry training and was not awarded an MOS. His service was uncharacterized. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. The Board found no error or injustice in his separation processing. Therefore, based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

■ ■ ■ DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, 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.

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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.

ADMINISTRATIVE NOTES: correction of his DD Form 214 to show the first name reflected on his Social Security Administration Card.

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 635-200 sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

a. Paragraph 3-4(2) Entry-Level status. Service will be uncharacterized, and so indicated in block 24 of DD Form 214, except as provided in paragraph 3–9a.

b. Paragraph 3-7a states an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

c. Paragraph 3-7b states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

d. Paragraph 3-9a Entry-level status separation. A separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status, except when—

(1) Characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case.

(2) HQDA on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority.

(3) The Soldier has less than 181 days of continuous active military service, has completed Initial Entry Training, has been awarded an MOS, and has reported for duty at a follow-on unit of assignment.

e. Chapter 11 sets policy and provides guidance for the separation of Soldiers because of unsatisfactory performance and/or conduct while in entry-level status. Separation of a Soldier in entry level status may be warranted on the grounds of unsatisfactory performance and/or unsatisfactory conduct as evidenced by: Inability; Lack of reasonable effort; Failure to adapt to the military environment; and/or Minor disciplinary infractions. This policy applies, in pertinent part, to Soldiers who enlisted in the Regular Army, ARNG, or USAR, are in entry-level status, undergoing IET, and, before the date of the initiation of separation action, have completed no more than 180 days of creditable continuous AD or IADT or no more than 90 days of Phase II under a split or alternate training option. (See the glossary for precise definition of entry-level status.) The Soldiers to whom this applies, in pertinent part have failed to respond to counseling and have demonstrated that they are not qualified for retention. The following conditions are illustrations of conduct and/or performance that disqualify Soldiers for retention: (a) Cannot or will not adapt socially or emotionally to military life; (b) Cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline; and/or (c) Have demonstrated character and behavior characteristics not compatible with satisfactory continued service.

f. Section II (Terms):

(1) Character of service for administrative separation - A determination reflecting a Soldier's military behavior and performance of duty during a specific period of service. The three characterizations are honorable, general (under honorable conditions), and under other than honorable conditions. The service of Soldiers in entry-level status is normally described as uncharacterized.

(2) Entry-level status - (Use appropriate sub paragraph)

(a) For Regular Army Soldiers, entry-level status is the first 180 days of continuous AD or the first 180 days of continuous AD following a break of more than 92 days of active military service.

(b) For ARNGUS and USAR Soldiers, entry-level status begins upon enlistment in the ARNG or USAR. For Soldiers ordered to IADT for one continuous period, It terminates 180 days after beginning training. For Soldiers ordered to IADT for the split or alternate training option, it terminates 90 days after beginning Phase II advanced individual training

(AIT). (Soldiers completing Phase I BT or basic combat training (BCT) remain in entry-level status until 90 days after beginning Phase II.)

3. Army Regulation 635-5 (Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It establishes standardized policy for the preparation of the DD Form 214 and DD Form 215. In pertinent part, it states the DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement or discharge. Once a DD Form 214 has been issued, do not reissue, except when two DD Forms 215 have been issued and an additional correction is required.

4. Army Regulation 15-185 (Army Board for Correction of Military Records), paragraph 2-11, states applicants do not have a right to a formal hearing before the ABCMR. The Director of the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//