

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 December 2024

DOCKET NUMBER: AR20240004082

APPLICANT REQUESTS: the record of her deceased father, a former service member (SM) be corrected to show he is authorized early retirement.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, Certificate of Release or Discharge from Active Duty
- SM's Death Certificate
- Applicant's Birth Certificate

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 her father should be entitled to be considered a retiree due to his time in service. She would like a 15-year retirement to be considered. Due to his time in service, he was honorably discharged. The law was not passed until 2011, well after he served; but she believes he should be entitled.
3. The SM enlisted in the Regular Army on 25 August 1982. He held military occupational specialty 19K, M-1 Armor Crewman.
4. He served through multiple reenlistments and/or extensions, in a variety of stateside or overseas assignments, and he attained the rank/grade of staff sergeant (SSG)/E-6.
5. The SM was honorably discharged from active duty on 17 March 1997 in accordance with chapter 4 of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel) after having completed 14 years, 5 months, and 19 days of active service with 4 days of lost time from 13 to 16 October 1997. He is assigned Separation Code JBK and Reentry Code 3. He was authorized half Separation Pay (\$16,838.95).

6. On 18 November 2024, the U.S. Army Human Resources Command (HRC) provided an advisory opinion in the processing of this case. An advisory official stated HRC is unable to grant administrative relief regarding the SM's request due to the following reasons:

a. The SM was voluntarily discharged on 17 February 1997. Public law 102-484, National Defense Authorization Act for Fiscal Year (FY) 1993 enacted the Temporary Early Retirement authority which remained in effect, with several extensions, until September 2002. This statute provided the Secretary of Defense a temporary additional force management tool with which to affect the drawdown of military forces. The law required the Soldier have a minimum of 15 years Active Federal Service (AFS) and be involuntarily separated as a force shaping measure.

b. On the date the SM was discharged he had a total of 14 years, 5 months, and 19 days AFS (active federal service) and was voluntarily discharged. Therefore, he was ineligible for a reduced AFS retirement under that Statute.

7. The applicant was provided with a copy of this advisory opinion to give her a chance to submit a rebuttal and/or additional comments. She did not respond.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the SM served on active duty from 25 August 1982 to 17 March 1997. He was separated due to completion of his required active service after completing 14 years, 5 months, and 19 days of active service with 4 days of lost time and he was authorized half Separation Pay. Public law 102-484, FY1993 NDAA enacted the TARA as a temporary force management tool with which to affect the drawdown of military forces. The law required the Soldier have a minimum of 15 years active Federal service and be involuntarily separated as a force shaping measure. On the date the SM was discharged, he had completed 14 years, 5 months, and 19 days of active federal service and was voluntarily discharged. Therefore, the Board determined he was ineligible for a reduced retirement under that Statute.

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.

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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.

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. Public Law 102-484, National Defense Authorization Act (NDAA) for FY 1993, provided the Secretary of Defense with a temporary additional force management tool to assist with the drawdown of active military forces. Congress enacted the Temporary Early Retirement Authority (TERA), which permitted selected military members to retire early. Section 534 of that law gave the Secretary of Defense authority to allow the

Service Secretaries to permit early retirement for selected military members having more than 15 but less than 20 years of active service.

a. Section 4464 of the FY93 NDAA allowed eligible members retired under TERA to perform public and community service following retirement and receive credit for this service to be used to recompute military retired pay, and where applicable, the Survivor Benefit Plan (SBP) based amount when the retired member attains or would have attained 62 years of age. Public and community service job vacancies included education, conservation, environmental protection, law enforcement and public health care positions.

b. Per DoD Instruction 1340.19, paragraph 2.2.3, the veteran must have performed public/community service "within the period beginning on the date of retirement and ending on the date of retired member would have attained 20 years of creditable service for computing retired pay." This timeframe is referred to as the ERQP (enhanced retirement qualification period.) DoD Instruction 1340.19 paragraph 5.3.3 also states all reporting should have been completed by the retiree no later than one year following the ERQP.

//NOTHING FOLLOWS//