

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 November 2024

DOCKET NUMBER: AR20240004414

APPLICANT REQUESTS: in effect, the correction of his separation date on his DD Form 214 (Report of Separation from Active Duty), ending on 26 April 1979, to show 26 July 1979 vice 26 April 1979.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record).

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 his Expiration Term of Service (ETS) date of 26 April 1979 should be changed to 26 July 1979. He enlisted in the Regular Army (RA) on 8 December 1978 and was reclassified on or about 28 April 1979. He was put on dorm detail until on or about 26 July 1979; he was called to finance to get his bus ticket to depart for home on the Greyhound bus line.
3. A review of the applicant's official record shows the following:
  - a. He enlisted in the U.S. Army Reserve (USAR) Control Group (Not on Active Duty) for the period of 21 November 1978 through 7 December 1978 then enlisted in the RA on 8 December 1978.
  - b. On 8 December 1978, the applicant enlisted in the RA for three years.
  - c. On 16 December 1978, he was assigned to A Company, 3rd Battalion, 3rd Basic Combat Training Brigade, Fort Leonard Wood, MO.
  - d. On 23 March 1979, he accepted nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice (UCMJ), for violation of Article 91- failing to

obey a lawful order on 20 March 1979 and violation of Article 92- for being disrespectful in language towards his superior noncommissioned officer. His punishment included forfeiture of pay, restriction for 14 days with five days of the restriction suspended for 5 days for 30 days and extra duty for 14 days with five days of the extra duty suspended for 5 days for 30 days.

e. On 6 April 1979, he accepted nonjudicial punishment under the provisions of Article 15, UCMJ, for violation of Article 92 -for dereliction in the performance of his duties for negligently failing to remain awake on bay guard. His punishment included forfeiture of pay, restriction to company area for 14 days and extra duty for 14 days.

f. On 10 April 1979, he accepted nonjudicial punishment under the provisions of Article 15, UCMJ, for violation of Article 134, for breaking said restriction and his punishment included forfeiture of pay for one month.

g. On 9 April 1979, the applicant's immediate commander notified him of his intent to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations - Enlisted Personnel) Chapter 5-33, Trainee Discharge Program (TDP). The specific reasons for his proposed recommendation were based upon the applicant could not meet the minimum standards for successful completion of training because of his lack of aptitude, ability, motivation, and self-discipline. The applicant acknowledged receipt on the same day and:

- he elected to not to submit rebuttals matters on his behalf
- he elected not to have a separation medical examination if this discharge is approved
- he understood that due to noncompletion of requisite active-duty time, Veteran Affairs and other benefits normally associated with completion of honorable active service will be affected
- understood that he will not be permitted to apply for reenlistment in the United States Army within 2 years of his discharge

h. The immediate commander-initiated separation action against the applicant under the provision of the TDP and recommended discharge.

i. On 23 April 1979, consistent with the chain of command recommendations, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, paragraph 5-33, the TDP. He would be issued an honorable discharge.

j. Orders Number 85-24 dated 25 April 1979, issued by Headquarters, U.S. Army Quartermaster Center and Fort Lee, reassigned the applicant to the transfer activity for

separation processing and honorably discharged him with an effective date of discharge of 26 April 1979.

k. On 26 April 1979, he was discharged from active duty with an honorable characterization of service. DD Form 214 shows he completed 4 months and 19 days of active service. He was assigned separation code JET, and the separation authority and reason was under the provisions of AR 635-200, paragraph 5-33.

**BOARD DISCUSSION:**

1. 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 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 insufficient evidence to support the applicant's contention for correction of his separation date on his DD Form 214, ending on 26 April 1979, to show 26 July 1979 vice 26 April 1979. This board is not an investigative body. The Board determined despite insufficient evidence in applicant's records, they agreed the burden of proof rest on the applicant, however, he did not provide any supporting documentation, and his service record has absent evidence to support the applicant contentions of an error on his separation date. Therefore, the Board denied relief.

2. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

**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.

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. AR 635-5 (Personnel Separations – Separation Documents) in effect at the time, prescribes the separation documents which are prepared for individuals upon retirement, discharge, or release from active military service. It established standardized policy for preparing and distributing the DD Form 214. The basic source documents used for preparing the DD Form 214 are DA Form 201 (Military Personnel Records Jacket), DA Form 2 and DA Form 2-1 (Personnel Qualification Records), separation orders, DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States), DA Form 3716 (Personnel Financial Records), enlistment records and DD Form 214 and any other available records. Item 18 (Record of Service), all service shown in 18(a) through 18 (e) will be less time lost under Title 10, USC, section 972 and time lost subsequent to ETS.
3. AR 635-200 (Personnel Separations - Enlisted Personnel) in effect at the time sets forth the basic authority for the separation of enlisted personnel from the Army. Paragraph 5-33 of the regulation in effect at the time governed the TDP. This program provided for the separation of service members who lacked the necessary motivation, discipline, ability or aptitude to become productive Soldiers or failed to respond to formal counseling. The regulation required that the service members must have voluntarily

enlisted; must have been in basic, advanced individual training, on the job, or service school training prior to award of a military occupational specialty and must not have completed more than 179 days of active on their current enlistment by the date of separation. The regulation provided that Soldiers could be separated when they demonstrated that they were not qualified for retention due to failure to adapt socially or emotionally to military life; could not meet minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation, or self-discipline; or demonstrated character and behavior characteristics not compatible with satisfactory continued service.

//NOTHING FOLLOWS//