

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 December 2024

DOCKET NUMBER: AR20240004922

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 30 April 1981, to show:

- active service from 16 December 2002 to 3 March 2003
- rank as colonel (COL)/O-6

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), period ending on 30 April 1981
- Orders Number T-12-216444, 11 December 2002
- Orders Number T-12-216444A01, 12 December 2002
- Orders Number T-01-301022, 28 January 2003
- Orders Number T-01-301022A01, 6 March 2003
- DA Form 67-9 (Officer Evaluation Report (OER)), 29 March 2003
- Orders Number C-07-419472, 27 July 2004
- Email communication, 4 January 2024
- Request Pertaining to Military Records, 10 January 2024
- U.S. Army Human Resources Command (AHRC) Fort Knox, KY, Letter, 21 February 2024

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:

- a. He requests a revised DD Form 214 be issued which reflects his service during the period 16 December 2002 - 3 March 2003 at the rank of colonel (COL)/O-6. To expedite his deployment to Joint Task Force (JTF) Guantanamo. He was activated by

the Defense Intelligence Agency (DIA), where he was an Individual Mobilization Augmentee (IMA), on training orders although the deployment was not for training purposes. As shown in his OER from that period, his duty was as the Commander, Joint Interrogation Group, as part of the Global War on Terrorism. He requests his DD Form 214 be re-issued in some manner that reflects his service during that 2002-2003 period.

b. For accuracy, his service as the commander of the JTF Guantanamo Bay (GTMO) Joint Interrogation Group was not a training mission and he should be given credit for this as active duty at least from a documentation perspective on his DD Form 214. DIA issued the orders as if for ADT in order to expedite fulfilling a time-sensitive request from the GTMO JTF to fill the Group's leadership slot. He believes it would be unjust if his duty, key to the successful provision of intelligence to the Department of Defense and other U.S. Government agencies and leadership was simply treated as a training activity rather than as active service.

c. Although he was generally aware of the absence of the information for the 2002-2003 duty on his DD Form 214, he only became concerned about it as he is now more than 70 years old and would like to ensure that when he passes away, he will be afforded full privileges associated with his rank as a COL/O-6 rather than just a captain/O-3. He began attempting to get this corrected in 2023 by contacting the Army Human Resources Command and after several different approaches have been advised to submit this form. He acknowledges being well beyond the 3-year limit.

3. A review of the applicant's military service records show:

a. Having prior Cadet service, DA Form 71 (Oath of Office – Military Personnel) shows he was appointed as a Reserve commissioned officer and executed his oath of office on 26 July 1974.

b. On 3 October 1974, Headquarters, First Reserve Officers Training Corps Region, Fort Bragg, NC, published Letter Orders Number AR-10-12, which ordered the applicant to active duty as a Reserve officer of the Army, effective on or about 29 October 1974.

c. On 30 April 1981, he was honorably released from active duty and was transferred to the U.S. Army Reserve Control Group (Reinforcement). DD Form 214 shows in:

- item 4a (Grade, Rate or Rank) – CPT
- item 12a (Date Entered Active Duty This Period) – 26 October 1974
- item 12b (Separation Date This Period) – 30 April 1981
- item 12c (Net Active Service This Period) – 6 years, 6 months, and 5 days

- item 28 (Narrative Reason for Separation) – Request for Release from Active Duty
 - d. On 2 April 2001, by memorandum, the U.S. Total Army Personnel Command, St. Louis, MO, notified the applicant that he was promoted to COL/O-6, effective 30 March 2001.
 - e. On 27 July 2004, AHRC, St. Louis, MO, published Orders Number C-07-419472, which assigned the applicant to the Retired Reserve, effective 1 August 2004.
 - f. On 6 October 2011, AHRC, Fort Knox, KY, published Orders Number P10-941937, which placed the applicant on the Army of the United States Retired List, in the rank of COL/O-6, effective 30 May 2012.
- 4. In support of his request the applicant provides:
 - a. Orders Number T-12-216444 dated 11 December 2002, published by the U.S. Army Reserve (USAR) Personnel Command, which ordered the applicant to active duty for training (ADT) for 60 days, with a report date of 16 December 2002. The purpose on the order shows "03KA FRA DIARS".
 - b. Orders Number T-12-216444A01 dated 12 December 2002, amending Order Number T-12-216444, to add Additional Instructions: "Order Amended to Change Type Training Code. Accounting Classification [Number]"
 - c. Orders Number T-01-301022 dated 28 January 2003, published by the USAR Personnel Command, which ordered the applicant to ADT for 30 days with a report date to GTMO Cuba (Guantanamo Cuba) on 14 February 2003. The purpose on the order shows "03RA FRA RICTS". The additional instructions state:
 - Break in travel time to/from HOR [Home of Record] not authorized
 - Travel to HOR covered by Order T12216444 dated 11 December 2002
 - d. Orders Number T-01-301022A01 dated 6 March 2003, published by USAR Personnel Command, which amended Order Number T-01-301022, by changing the Period to 43 days vice 30 days.
 - e. DA Form 67-9 (OER) period covered 17 December 2002 through 29 March 2003, which shows his Principal Duty Title as "Commander, JTF GTMO Joint Interrogation Group (JIG)", and he received favorable ratings.

- f. Email communication dated 4 January 2024, between the applicant and AHRC discussing his current contentions and changing DD Form 214 to show the rank of COL and his service at JTF GTMO. AHRC returned his case without action.
- g. Request Pertaining to Military Records dated 10 January 2024, which shows he requested a correction to his DD Form 214 to reflect active service from 16 December to 3 March 2003 at the rank of COL/O-6.
- h. AHRC, Fort Knox, KY, Letter dated 21 February 2024, responding to the applicant's request for a DD Form 215 (Correction to DD Form 214), and states, after review of his request and supporting documents, the requested correction cannot be processed. The service time listed on the DD Form 214 is correct as issued. The active-duty time of 16 December 2002 to 3 March 2003, 78 days of active duty occurred after the separation date on his DD Form 214 of 30 April 1981.

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 the applicant was appointed as a Reserve commissioned officer on 26 July 1974 and entered active duty on 29 October 1974. He was honorably released from active duty on 30 April 1981 and transferred to the U.S. Army Reserve Control Group (Reinforcement). His DD Form 214 accurately reflects his rank at the time of separation as Captain (CPT), and his active service duration as 6 years, 6 months, and 5 days.
2. The Board noted, the applicant's record reflects he was promoted to COL/O-6 effective 30 March 2001 and later assigned to the Retired Reserve effective 1 August 2004. He was placed on the Army Retired List in the rank of COL/O-6 effective 30 May 2012. The Board concurred with AHRC's review finding the DD Form 214 issued for the period ending 30 April 1981 accurately reflects the service and rank at that time. The additional service occurred after the separation date and is not applicable to the DD Form 214 in question. Based on the preponderance of evidence the Board found the applicant's DD form 214 accurate. The subsequent ADT and promotion to COL/O-6 occurred after the issuance of the applicant's DD Form 214 and are documented in other official records. Therefore, the Board denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>
--------------	--------------	--------------

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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.

X //SIGNED//

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, 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 (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an

error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

3. Army Regulation 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents.

a. Paragraph 5-1 (When to prepare the DD Form 214) states, the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clearcut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. In pertinent part, a DD Form 214 will be prepared for Soldiers in the following categories:

(1) Reserve Component (RC) Soldiers completing 90 days or more days of continuous active duty.

(2) RC Soldiers separated for cause or physical disability regardless of the length of time served on active duty.

(3) Army National Guard (ARNG) of the United States (ARNGUS) and U.S. Army Reserve (USAR) Soldiers mobilized under Title 10, U.S. Code (USC) sections 12301, 12302, 12304, 12304a, or 12304b and ARNG Soldiers called into Federal service under 10 USC 12301 or 32 USC 502, regardless of length of mobilization, when transitioned from active duty.

(4) RC Soldiers completing active duty that results in the award of a military occupational specialty (MOS), even when the active duty period was less than 90 days (for example, completion of the advanced individual training component of ARNGUS Alternate Training Program or USAR Split Training Program).

b. Paragraph 5-6 (Rules for completing the DD Form 214) states, this paragraph provides detailed instructions for data required in each block of the DD Form 214. The instructions for Block 4 (Grade, Rate, or Rank) state to verify that active duty grade or rank and pay grade are accurate at time of separation.

4. Title 10, USC, Section 12301 (Reserve components generally), section (d) states, at any time, an authority designated by the Secretary concerned may order a member of a Reserve Component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State concerned.

//NOTHING FOLLOWS//