

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 February 2025

DOCKET NUMBER: AR20240005162

APPLICANT REQUESTS:

a DD Form 214 (Certificate of Release from Active Duty) for his enlisted service appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)(online)
- Leave and Earnings Statement
- DD Form 214
- Army Review Boards Agency (ARBA) Letter
- U.S. Army Human Resources Command (USAHRC) Letter
- DA Form 1569 (Transcript of Military Record)
- Email Chain
- Standard Form 180 (Request Pertaining to Military Records)
- USAHRC Letter
- Total LESSs

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. A DD Form 214 does not exist for his enlisted time. The only DD Form 214 the National Archives and USAHRC have on file is for his time as an officer. He needs a DD Form 214 created for his enlisted time. He is currently working as a GS-14 for the Department of Defense, and he needs to show proof of his Army time to buy this time back for retirement purposes. He submitted an application to the Army Board for Correction of Military Records (ABCMR) on July 10, 2019, for this. In a letter dated 12

January 2021, the ARBA responded saying his application was premature because he had not applied to HRC first. He has done that.

b. HRC issued him a DD Form 1569. When he provided that to DLA Benefits for the Buyback, they rejected that form. They want a DD Form 214. There is no question his military records are in error. He has no DD Form 214 for his enlisted time when it is clear from his officer DD Form 214 that he has a total prior active service record of 6 months and 22 days. He also has his LES records from the entire enlisted period. The injustice is that Army HRC refuses to produce a DD Form 214 for his enlisted service.

c. This should not be that hard. However, DLA should just accept the existing documents and calculate his buyback, but they want a DD Form 214. He is stuck between the two. He just wants the bureaucratic nightmare to end. Please don't tell me to go back to either of these agencies and get them to do anything. He cannot make them do anything.

d. He started this process within three years of finding the error. After having the DD Form 1569 rejected by DLA in 2021, he did not see a clear path forward. It seemed he was stuck between a rock and a hard place. Please help him fix this and secure his retirement. He cannot get around the necessity of a DD Form 214.

3. The applicant provides:

a. LES, 1-30 September 2002 shows grade specialist/E-4, Army.

b. An ARBA letter, 12 January 2021, shows the applicant's application was premature because he had not applied to USAHRC first.

c. Standard Form 180 (Request Pertaining to Military Records), 5 April 2021 shows the applicant requested a DD Form 214.

d. Memorandum, Subject: Verification of Service for Military Deposit Buyback for the applicant, USAHRC letter, 17 April 2024 shows the applicant had honorable service.

e. Total LESs show his grade as E-4 and his grade, as sergeant/E-5 and as second lieutenant/O-1 through captain/O-3.

4. The applicant's service record shows:

a. The applicant enlisted into the Regular Army on 18 June 2002. His DA Form 3286-85 (Statement for Enlistment U.S. Army Officer Enlistment Program) shows he enlisted for the commissioned officer candidate school.

b. DA Form 71 (Oath of Office-Military Personnel) shows the applicant was appointed a as a Reserve Commissioned Officer in the grade of second lieutenant/2LT on 10 January 2003.

c. Orders 350-11-A-3053, 16 December 2003 ordered the applicant to active duty in the grade of 2LT.

d. Memorandum, Subject: Release from Active Duty, 23 November 2005 shows the applicant requested release from active duty to pursue civilian employment.

e. Memorandum, Subject: Unqualified Resignation, 11 January 2006 shows recommended approval of the applicant's request for unqualified resignation. On 26 January 2006 is request was approved. Effective 26 July 2006.

f. Orders 125-02, 5 May 2006 reassigned him to the transition point for transition processing and released him from active duty not by reason of physical disability and assigned him to the U.S. Army Reserve (USAR).

g. Memorandum, Subject: Appointment as a Reserve Commissioned Officer, 26 July 2006 shows he was appointed a Reserve Commissioned officer of the Army in the grade of captain/O-3.

h. He was honorably discharged and transferred to the USAR on 26 July 2006. His DD Form 214 shows he completed:

- item 12c (Net Active Service This Period) 3 years, 6 months, and 17 days
- item 12d (Total Prior Active Service) 6 months and 22 days

i. Orders D-07-210138, 3 July 2012 shows the applicant was honorably discharged from the USAR effective date 3 July 2012.

5. On 12 January 2021, ARBA notified the applicant that his request for a DD Form 214 was premature and that he would have to first apply to the USAHRC for their action.

6. Memorandum, Subject: Verification of Service for Military Deposit Buyback for the applicant, USAHRC letter, 15 October 2021 shows the applicant's DD Form 214 was not located and they provided DA Form 1569, which is an official replacement for the DD Form 214. It is approved for any purpose where his DD Form 214 is required.

7. DA Form 1569, 15 October 2021 shows the applicant's rank as sergeant/E-5. He was Regular Army and was honorably discharged from active service on 9 January 2003 to accept a commission in the Army. He served on active duty from 18 June 2002 to 9 January 2003.

8. Army Regulation 635-8 (Separation Processing and Documents) currently in effect, states, "Do not issue DD Form 214 to replace copies or DD Forms 214 lost by the Soldier. If no DD Form 214 is available, issue a statement of service or transcript of military record."

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was 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. One potential outcome was to deny relief based on the applicant's active-duty service is all captured on that 214 (add previous AD with AD this period) and the memo (and these proceedings) would suffice to meet the applicant's request. However, upon review of the applicant's petition and available military records, the Board determined there is sufficient evidence to support issuance of a statement of military service or transcript of military record.

2. Evidence clearly supports that he served honorably on active duty during this period, enlisting into the Regular Army and subsequently receiving a commission as a Reserve Officer. His officer DD Form 214 reflects 6 months and 22 days of prior active service, which corresponds precisely to his enlisted time. However, no DD Form 214 was issued for this period, and the only document provided by HRC was a DA Form 1569, which DLA Benefits has rejected for retirement buyback purposes. The Board noted, given the totality of evidence and the applicant's diligent efforts to resolve the matter within the prescribed timeframes, relief is granted by directing the issuance of a statement of military service or transcript of military record. to accurately reflect his enlisted active-duty service.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	XXX	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 records of the individual concerned be corrected by issuing a statement of military service or transcript of military record. to accurately reflect his honorable enlisted active-duty service for the period of 18 June 2002 to 9 January 2003.

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.

ADMINISTRATIVE NOTE(S): N/A

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 635-8 (Separation Processing and Documents), currently in effect states when a DD Form 214 has been prepared and distributed, and subsequently determined that it was prepared in error, the responsible transition center will void the DD Form 214 by memorandum. Distribute this memorandum to all addressees that received the erroneously prepared DD Form 214, advising them of the error and requesting the voided DD Form 214 be destroyed and removed from the Soldier's AMHRR. A DD Form 215 will be issued by the appropriate activity listed in paragraph 8-1. However, in unusual circumstances HRC may direct a transition center to reissue DD Form 214 and void the original issue.
3. Army Regulation 635-8 also provides that once a DD Form 214 has been issued, transition centers do not reissue except for the following reasons: (1) When directed by

appellate authority, executive order, or by the Secretary of the Army; (2) When it is determined that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215; and (3) Activities listed in paragraph 8–1b and c may reissue DD Form 214 when circumstances listed in paragraph 8–4 apply.

a. When a DD Form 214 is administratively reissued, enter that fact and the date of such action on the DD Form 214, block 18, unless the authority directing reissuance specifies otherwise.

b. Do not issue DD Form 214 to replace copies or DD Forms 214 lost by the Soldier. If no DD Form 214 is available, issue a statement of service or transcript of military record.

//NOTHING FOLLOWS//