

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 January 2025

DOCKET NUMBER: AR20240005687

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect 20-years of Active Federal Service (AFS).

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 for service ending 3 November 2004
- DD Form 214 for service ending 15 August 2022
- DA Form 5016 (Retirement Accounting Statement)

FACTS:

1. The applicant states he requests the correction of both his DD Form 214 to reflect 20-years of AFS. He served 20 AFS and his DA Form 5016 reflects he served 20-years. The error was not discovered at the time of his separation due to no fault of his own as he was in a coma and was unable to review and sign his final DD Form 214.

2. A review of the applicant's service record shows:

a. On 17 December 2003, the applicant enlisted in the U.S. Army Reserve (USAR) Delayed Entry/Enlistment Program (DEP). He understood his enlistment in the DEP was in a non-pay status and the period of time in the DEP was not creditable for pay purposes upon his entry into a paid status. The time in the DEP only counted toward the fulfillment of his military service obligation.

b. On 30 June 2004, the applicant was discharged from the DEP and enlisted in the Regular Army (RA) for a period of 3-years.

c. Officer Record Brief shows the applicant's:

- Base Active Service Date: 30 June 2004
- Basic Officer Service Date: 4 November 2004
- Pay Entry Basic Date: 30 June 2004
- Date Initial Entry Military Service: 30 June 2004

- Basic Date of Appointment: 4 November 2004
- Active Federal Commissioned Service in Months and Day: 214-months = 17.8-years and 27-days
- Active Federal Service Months: 219-months = 18.25-years

d. On 25 October 2004, Orders Number 299-185-A-64, issued by Headquarters (HQs), U.S. Army Aviation Center and Fort Rucker, the applicant was ordered to active duty, effective 4 November 2004, for a 6-year active duty commitment upon successful completion of warrant officer technical and tactical certification.

e. On 3 November 2004, the applicant was honorably discharged from active duty for the acceptance of a warrant officer appointment. DD Form 214 shows the applicant completed 4-months and 4-days of active service. It also shows in item 18 (Remarks): period of DEP was 17 December 2004 through 29 June 2004.

f. On 4 November 2004, the applicant executed his oath of office and was appointed a Reserve warrant officer in the rank of warrant officer one.

g. DA Form 4980-10 (Meritorious Service Medal Certificate) shows on 8 June 2017, Permanent Orders Number 159-13, issued by HQs, U.S. Army Special Operations Aviation Command, the applicant was awarded the Meritorious Service Medal for exceptionally meritorious service as a fully mission qualified pilot and Aviation Mission Survivability Officer during the period of 14 April 2013 through 30 April 2017.

h. On 30 October 2018, the applicant was reprimanded by the commander of I Corps for the violation of orders from both his immediate commander and the court of Thurston County, WA by failing to comply with court mandated child and spousal support decrees. Also, exhibiting conduct unbecoming of an officer by sending his wife an e-mail that indicated he won an Army funded all inclusive trip to a swingers' resort in Mexico and sent messages to his wife which misrepresented by stating the Federal Bureau of Investigations was investing his family.

i. On 25 April 2019, the commander of I Corps approved the recommendation the applicant be retained in the Army though he was reprimanded for the violation of commander and legal orders and conduct unbecoming an officer. The reprimand was filed in his Army Military Human Resources Records (AMHRR).

j. On 6 December 2019, Assistant Secretary of the Army Manpower and Reserve Affairs, Memorandum, Subject: Promotion Review Board, Fiscal Year 2017, Chief Warrant Officer Four, Aviation Promotion Selection Board, the applicant was retained on the promotion list.

k. On 12 May 2020, the Department of the Army Suitability Evaluation Board determined the overall merits of the case did not warrant relief for the applicant's request to have the administrative General Officer Memorandum of Reprimand (GOMOR) removed from his AMHRR. He stated the GOMOR was untrue and unjust in whole as the Board of Inquiry shown by clear and convincing evidence the document to be untrue and unjust.

l. On 6 December 2021, the commander of I Corps reprimanded the applicant for refusal to obey a lawful order to receive the Coronavirus vaccine. He was counseled and educated about the benefits and safety of the vaccine, and he continued to disobey the order.

m. On 11 May 2022, a formal Physical Evaluation Board (PEB) found the applicant to be physical unfit for retention and recommended he be placed on the Temporary Disability Retired List (TDRL) with combined 70 percent disability for:

- major depressive disorder, single episode, moderate with anxious distress, nightmare disorder with sleep paralysis with a 70 percent disability
- gastroesophageal reflux disease/hiatal hernia status post robotic assisted laparoscopic hiatal hernia repair and nissen fundoplication for 10 percent disability
- traumatic brain injury for zero percent disability

The applicant concurred with the findings and did not request reconsideration by his Department of Veteran Affairs ratings which he signed the DA Form 199 (Formal PEB Proceedings) on 16 May 2022.

n. On 21 June 2022, Orders Number 172-0003, issued by the Directorate of Personnel and Family Readiness, the applicant was assigned to the Joint Base Lewis-McChord Transition Center to report on 15 August 2022 for his retirement processing. He was placed on the TDRL on 16 August 2022 with a 70 percent disability. His disability retirement was based on 18-years, 1-month, and 16-days of service and his basic pay was based on 18-years, 1-month and 16-days of service. The applicant initially entered the military on 30 June 2004.

o. On 15 August 2022, the applicant was honorably retired from active duty and assigned to the USAR Control Group (Retired Reserve). DD Form 214 shows the applicant completed 17-years, 9-months, and 12-days of active service. It also shows in item 12d (Total Prior Active Service): 4-months and 4-days for a total of 18-years, 1-month and 16-days of active Federal service.

p. On 9 February 2023, Orders Number 4000876, issued by the U.S. Army Human Resources Command (AHRC), the applicant was placed on the Permanent Disability

Retired List, effective 16 August 2022, with 18-years, 5-months, and 17-days of total service and total AFS.

q. DA Form 5016 (Retirement Accounting Statement) dated 15 January 2024, shows in period of service with Retirement Year Ending (RYE):

(1) In the period of service, 4 November through 16 December 2004, the applicant was awarded 43 active duty points and 7-months and 26-days qualifying for retirement. However, this period is actually 1-month and 13-days qualifying for retirement.

(2) The applicant's RYE 16 December 2022 was split due to the transition from the legacy system to the Integrated Personnel Pay System-Army for the Human Resources system of records. For the period of:

- 17 December 2021 through 13 November 2022, the applicant was awarded 332 active duty points for a total of 10-months and 28-days qualifying for retirement
- 14 November 2022 through 16 December 2022, the applicant was awarded 33 active duty points for a total of 1-month and 3-days qualifying for retirement

(3) In the period of service, 17 December 2022 through 16 December 2023, the applicant was awarded 349 active duty points for a total of 1-year qualifying for retirement.

(4) The applicant's retirement year beginning on 17 December 2023, he was awarded 15 active duty points for a total of 0-years, 0-months, and 0-days qualifying for retirement.

The applicant was awarded 7,108 active duty points for 20-years qualifying service for retirement. However, according to DD Form 214 the applicant retired on 15 August 2022 at which time his base pay should have terminated as well as the awarding of his retirement points.

On the annual detail supplement of the DA Form 5016, it shows:

BEGIN DATE	END DATE	SERVICE TYPE	POINTS TYPE/ DESCRIPTION			POINTS EARNED	PAID/ NON-PAID
20230101	20230115	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230116	20230131	USA	ADT	ACTD	Active Duty -- Active Component	16	y
20230201	20230215	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230216	20230228	USA	ADT	ACTD	Active Duty -- Active Component	13	y
20230301	20230315	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230316	20230331	USA	ADT	ACTD	Active Duty -- Active Component	16	y
20230401	20230415	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230416	20230430	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230501	20230515	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230516	20230531	USA	ADT	ACTD	Active Duty -- Active Component	16	y
20230601	20230615	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230616	20230630	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230701	20230715	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230716	20230731	USA	ADT	ACTD	Active Duty -- Active Component	16	y
20230801	20230815	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230816	20230831	USA	ADT	ACTD	Active Duty -- Active Component	16	y
20230901	20230915	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20230916	20230930	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20231001	20231015	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20231016	20231031	USA	ADT	ACTD	Active Duty -- Active Component	16	y
20231101	20231115	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20231116	20231130	USA	ADT	ACTD	Active Duty -- Active Component	15	y
20231201	20231215	USA	ADT	ACTD	Active Duty -- Active Component	15	y

3. On 28 October 2024, in the processing of this case, AHRC provided an advisory opinion regarding the applicant's request for the correction of his DD Form 214 for service ending 3 November 2004 and DD Form 214 for service ending 15 August 2022. The advisory official stated after the review of his DD Form 214 and his service record it was determined his documents are correct.
4. On 29 October 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment.
5. On 26 November 2024, the applicant responded, he did not provide any comments but he did provide a copy of his DD Form 149 and documents he provided with his original application.

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. Upon review of the applicant's request, available military records and the U.S. Army Human Resources Command advisory opinion, the Board concurred with the advising official finding the applicant's service record documents are correct.
2. Based on the advising opine, the Board determined there is insufficient evidence to support the applicant contentions for correction of his DD Form 214 to reflect 20 years of Active Federal Service (AFS). Evidence in the record show the applicant enlisted in the U.S. Army Reserve Delayed Entry Program (DEP) on 17 December 2003 and entered active duty on 30 June 2004. The Board also noted that the applicant's time in the DEP was in a non-pay status and not creditable toward AFS. The applicant's DA Form 5016 shows a total of 7,108 retirement points and 20 years of qualifying service for retirement purposes, this includes points accrued beyond his retirement date. According to Army regulations and retirement processing orders, retirement points and base pay eligibility cease upon retirement.
3. Furthermore, while the applicant's service record reflects commendable longevity and progression, the governing regulations do not authorize retroactive adjustments to AFS on the DD Form 214 based on post-retirement point accrual or administrative system transitions. The Board agreed, the applicant's DD Form 214 correctly reflects 18 years, 1 month, and 16 days of AFS as of his retirement date on 15 August 2022. The additional points and time reflected in the DA Form 5016 were accrued after his retirement and are not applicable for correction of his DD Form 214. Therefore, the Board determined that the DD Form 214 accurately reflects the applicant's AFS at the time of retirement and denied relief.

4. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

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:

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

ADMINISTRATIVE NOTE(S):

1. Reference the enclosed request for correction of military records from the subject individual to correct his DD Form 214 (Certificate of Release or Discharged from Active Duty) for the period of service 4 November 2004 through 15 August 2022, by adding the Meritorious Service Medal to item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized).

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- DD Form 214 for the period of service 4 November 2004 through 15 August 2022
- DA Form 4980-10 (Meritorious Service Medal Certificate) for Permanent Orders Number 159-13, 8 June 2017, Meritorious Service Medal, Headquarters, U.S. Army Special Operations Aviation Command
- Army Regulation 600-8-22 (Military Awards)

3. Please correct the applicant's DD Form 214 by adding the award shown in paragraph 1 above. Provide the applicant a copy of the corrections, and as applicable the medal and citation. Please ensure that the corrections are recorded in the applicant's official military personnel record.

REFERENCES:

1. Army Regulation (AR) 635-8 (Personnel Separations – Separation Processing and Documents), 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), 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 REFRAD, retirement, or discharge.

b. Paragraph 5-4 (Source documents), when separation is ordered, the separation approval documents must be present for transition processing to occur. The source documents must be present in a Soldier's record in order to complete the DD Form 214. If approval documentation is not present in a Soldier's record, action will be coordinated with the necessary activity (personnel service division, Assistant Chief of Staff for Personnel, adjutant general, or chain of command) for proper source documents. Use the following documents when preparing a DD Form 214:

- Servicemember's record brief (computer generated)
- Separation approval documents, if applicable
- Separation order
- Any other document authorized for filing in the Army Military Human Resources Record

c. Paragraph 5-6 (Rules for completing the DD Form 214), I. Block 12: (Record of Service):

(1) Block 12a: (Date Entered Active Duty This Period), data sources are enlistment contract(s), initial order to active duty, active duty order, previously issued DD Forms 214, DA Form 1506 (Statement of Service – For Computation of Length of Service for Pay Purposes), and a complete review of the Soldier's official record. Enter the beginning date of the continuous period of active duty for issuance of this DD Form 214, for which a DD Form 214 was not previously issued. Do not depend on basic active service date for this data item. The basic active service date can be an adjusted date.

(2) Block 12b: (Separation Date This Period), list the Soldier's transition date. This date may not be the contractual date if the Soldier was separated early, voluntarily extends, is extended to make up lost time, or is retained on active duty for the convenience of the Government.

(3) Block 12c: (Net Active Service This Period), amount of service this period, computed by subtracting block 12a from 12b. Lost time under Title 10 United States Code (USC), section 972 and non-creditable time after expiration term of service, if any, are deducted. Lost time will be listed in block 29; other non-creditable time will be identified in block 18. If Soldier was released from active duty because of voided enlistment, enter "00 00 00."

(4) Block 12d: (Total Prior Active Service), from previously issued DD Form 214, DD Form 220, DA Form 1506, or Retirement Point Annual Statement, enter total amount of prior active military service less lost time, if any. If not applicable, enter "00 00 00."

(5) Block 12e: (Total Prior Inactive Service), from previously issued DD Form 214, Retirement Point Annual Statement, DA Form 1506, or Servicemember's record brief, enter the total amount of prior inactive service, less lost time, if any. Inactive Service should be annotated in block 12e and block 18 as prior inactive service entered in format "0000 00 00."

2. Department of Defense Financial Management Regulation 7000.14-R, Volume 7a (Military Pay), chapter 1 (Basic Pay), paragraph 0101 (Creditable Service),

a. Subparagraph b (Computation of Creditable Service), for most members who enter and serve on active duty without a break in service, the basic pay date is the date the member enters active or inactive service. If, however, there is a break in service, then the time between periods of service usually is not included. Also, there are statutory periods when service in a particular component may not be counted. Conversely, there are periods for which some members are given constructive service, even though they were not actually serving on active or inactive duty. Use the following

guidance to compute the basic pay date when there has been a break in service of any kind or if there is a need to include constructive service.

b. Subparagraph d (Other Creditable Service (with restriction noted below and in subparagraph 010102a), include the following periods of service:

- service on a Military Service retired list, temporary disability retired list, or honorary retired list of any Uniformed Service, or service as a member of the Fleet Reserve or Fleet Marine Corps Reserve
- any period of service during which a member is entitled to retired, retirement, or retainer pay from any Uniformed Service
- periods of service when a member is detailed to and receiving pay and allowances from any other agency of the United States, even though accrual of military pay and allowances is suspended
- service as an enlisted member in a Reserve Component, including Ready Reserve service (inactive and active) under the Delayed Entry (Enlistment) Program (DEP), before beginning active duty or an initial period of active duty for training, provided the Reserve enlistment was entered into before 1 January 1985; as of 1 January 1985, the following restrictions went into effect as and when stated
 - enlistments in a Reserve Component under Title 10 USC, section 12103(b) or (d), including enlistments under a DEP, that were entered into between 1 January 1985, and 28 November 1989, the period served in the Reserve Component before beginning active duty or an initial period of active duty for training is not creditable
- enlistments entered into on or after 29 November 1989:
 - period of enlisted service in a Reserve Component under Title 10 USC, section 12103(b) or (d), including inactive service under a DEP, is creditable service only if the member performs inactive duty training before beginning active duty or an initial period of active duty for training
 - service performed as an enlisted member in a Reserve Component under Title 10 USC, section 513, other than a period of active duty, is not creditable

//NOTHING FOLLOWS//