

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 December 2024

DOCKET NUMBER: AR20240005850

APPLICANT REQUESTS: reconsideration of his previous request for the issuance of a separation order and Certificate of Service.

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

- Request for Reconsideration in lieu of a DD Form 149 (Application for Correction of Military Record), dated 22 February 2024
- Memorandum for Record, Army Review Boards Agency (ARBA), dated 1 May 2024
- facsimile cover sheets (2), National Personnel Records Center (NPRC), dated 26 November and 29 November 2022
- Standard Form (SF) 180 (Request Pertaining to Military Records), dated 26 November 2022
- letter, NPRC, dated 21 March 2023
- email correspondence (26 pages) to NPRC; the Army Publishing Directorate (APD); Headquarters, Department of the Army (HQDA) G-1; Army Human Resource Command (AHRC); and the U.S. Army Heritage and Education Center (USAHEC), dated 1 December 2022 to 24 October 2023

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20210017608 on 7 June 2022.
2. The applicant states, in effect, the Board not having access to any additional sources of records indicates that those records never existed to begin with. Separation orders from the U.S. Army Reserve (USAR) should have been produced in November 1999. A letter from NPRC, dated 21 March 2023, which states his Army personnel record is now on loan to the Army Review Boards Agency (ARBA). The absence of a discharge order in these records confirms the document never existed. 19 years after his expiration term of service (ETS) his records contain no proper separation documents, which is not a way to leave a record for one who served honorably.

3. The applicant enlisted in the USAR on 13 November 1991 for an 8-year period. A DA Form 3540 (Certificate and Acknowledgement of Service Requirements...) shows he enlisted under the option obligating him to a troop program unit for a period of 6 years and as a member of the Inactive Ready Reserve (IRR) for the balance of his 8-year service obligation (2 years). He also acknowledged understanding the satisfactory participation requirements of his enlistment.

4. He was ordered to active duty for the completion of active duty for training (ADT) on 20 July 1993. He was released from active duty and transferred to the 347th Medical Hospital, Sunnyvale, CA on 10 September 1993, due to completion of ADT. His service was uncharacterized. He was credited with 1 month and 21 days of net active service, with 2 months and 4 days of prior active service. He was awarded military occupational specialty (MOS) 76J (Medical Supply Specialist) [See Administrative Notes].

5. The applicant was reassigned to Headquarters and Headquarters Company, 352nd Evacuation Hospital, Oakland, CA, effective 1 March 1995.

6. He was awarded the Army Reserve Component Achievement Medal on 10 April 1996, for four years of continuous service ending on 14 November 1995.

7. On 21 November 1997, the applicant was released from the 352nd Combat Support Hospital and voluntarily reassigned to the IRR.

8. Orders C-05-816715, issued by US. Army Reserve Personnel Command, St. Louis, MO on 19 May 1998, shows the applicant was voluntarily reassigned from the USAR Control Group (Reinforcement) to the 801st Engineer Company, Port Construction (PC). The order also notes his expiration term of service (ETS) was 14 November 1999.

9. A Letter of Instruction, from the 801st Engineer Company (PC), dated 23 September 1998, shows the applicant was absent from the scheduled unit training assembly (UTA) for two periods on 19 September 1998 and two periods on 20 September 1998. He was further advised that if his absences were not excused he would accrue eight unexcused absences within a one-year period. If he accrued nine unexcused absences within a one-year period, he would become an unsatisfactory participant and processed for separation from the Selected Reserve either by reassignment or discharge.

10. Orders 342-44, issued by the U.S. Army 63rd Regional Support Command, Los Alamitos, CA on 8 December 1998, show the applicant was reassigned to the IRR (Annual Training), effective 8 December 1998, by reason of IRR No-Show.

11. On 4 January 2000, the applicant was mandatorily released from USAR Control Group (Annual Training) and assigned to the USAR Control Group (Reinforcement),

under the provisions of Army Regulation 140-10 (Army Reserve – Assignments, Attachments, Details, and Transfers).

12. The ABCMR reviewed the applicant's request for the issuance of a separation order and certificate of service on 7 June 2022. After careful consideration, the Board determined there was insufficient supporting documentation in the record or provided by the applicant that supported his request. Based upon his original service obligation, he should have been transferred to the IRR on 14 November 1997 with a discharge effective 14 November 1999. However, without access to additional records it was impossible to determine whether or not there was an error in his reassignment or separation.

13. The applicant provides:

a. A memorandum from ARBA, dated 1 May 2024, which shows the ARBA Security Manager reviewed documentation from the applicant which contained CONFIDENTIAL markings. The security manager determined the markings were for privacy reasons and did not appear to be classified information.

b. The applicant submitted an SF 180 to NPRC on 26 November 2022. NPRC provided a response on 21 March 2023 stating his Service Record was on loan to ARBA.

c. Email correspondence between the applicant and APD, HQDA G-1, AHRC, and USAHEC, dated 1 December 2022 to 24 October 2023, show the applicant's ongoing efforts to resolve his issue.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the information reflected on the applicant's DA Form 2-1, the applicant's only period of active-duty service is accurately reflected on his DD Form 214. Additionally, based upon the evidence that the applicant had unexcused absences leading to his separation which may have resulted in the delay of his separation order being published, the Board found insufficient evidence of an error or injustice warranting a correction to the applicant's record.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. 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.
2. Prior to closing the case, the Board noted the administrative note below from the analyst of record and recommended that change be completed to more accurately reflect the military service of the applicant.

■

■

■

---

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):

The applicant completed a period of initial active duty for training (IADT). He was awarded an MOS at the completion of training and returned to the control of the USAR. Regulatory guidance provides that when a Reserve Component Soldier successfully completes IADT, the characterization of service is Honorable unless directed otherwise by the separation authority. Please reissue him a DD Form 214 for the period ending 10 September 1993, showing his character of service as Honorable.

REFERENCES:

1. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides 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.

2. Army Regulation 135–178 (Army National Guard and Army Reserve – Enlisted Administrative Separations) sets policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers for a variety of reasons.

a. Paragraph 2–15 (Discharge after expiration of the service obligation) states if the Soldier is assigned to the Individual Ready, Standby, or Retired Reserve, Commander (CDR), Human Resource Command (HRC)– St. Louis, will issue an annotated discharge order. The order will be annotated on the back, by endorsement, to show that the order was mailed to the Soldier at the most recent address furnished by the Soldier as an address for receipt or forwarding of official mail and the date the order was mailed. The annotated order will be sent by registered or certified mail. A copy of the annotated order, reflecting the date of mailing to the Soldier, will be placed in the Soldier’s Official Military Personnel file (OMPF).

(1) A Soldier is entitled to be discharged on the expiration of his or her service obligation, and normally will be discharged unless action is taken to retain the Soldier beyond such expiration date.

(2) Retention beyond the expiration date of a service obligation may be either voluntary or involuntary.

b. Paragraph 2–17 (Notification of discharge) states if the Soldier is assigned to the Individual Ready, Standby, or Retired Reserve, CDR, HRC–St. Louis, will issue an annotated discharge order. The order will be annotated on the back, by endorsement, to show that the order was mailed to the Soldier at the most recent address furnished by the Soldier as an address for receipt or forwarding of official mail and the date the order was mailed. The annotated order will be sent by registered or certified mail. A copy of the annotated order, reflecting the date of mailing to the Soldier, will be placed in the Soldier’s OMPF.

c. Paragraph 4–3 (Retention beyond expiration of service obligation) states a Soldier may not be held in the Army beyond the normal expiration of service obligation unless the service obligation is extended by law or the provisions of paragraph 2–15 apply.

When through administrative error a Soldier is not discharged on the actual date of completion of term of enlistment, reenlistment, or date of completion of statutorily obligated service, or as provided in paragraph 2–15, a remark will be included in the “Remarks” section of the Soldier’s DA Form 2–1 (Personnel Qualification Record) as follows: “Retained beyond normal discharge date for the convenience of the Government.”

3. Army Regulation 140-10 (Army Reserve – Assignments, Attachments, Details, and Transfers), covers policy and procedures for assigning, attaching, removing, and transferring USAR Soldiers.

a. Paragraph 1-8c states Enlisted IRR and Standby Reserve soldiers are discharged on the date of Expiration of Term of Service (ETS). Although the discharge is effective on ETS, orders are issued on the first day of the ETS month. To prevent a service break, reassignment processing must begin when they are within 6 months of ETS.

b. Paragraph 4-15a states a troop program unit (TPU) Soldier who has completed initial entry training and been awarded a military occupational specialty and is not within 3 months of ETS, who fails to participate satisfactorily may be reassigned to the appropriate control group of the IRR. Involuntary reassignment is discretionary and may be made in lieu of discharge proceedings when determined to be in the best interest of the Army.

4. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, prescribes the transition processing function of the military personnel system. It states a DD Form 214 (Certificate of Release or Discharge from Active Duty) will be prepared for RC Soldiers awarded a military occupational specialty (MOS) even if active duty is less than 90 days. When a RC Soldier successfully completes IADT the character of service is Honorable unless directed otherwise by the separation approval authority.

5. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NR) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

//NOTHING FOLLOWS//