

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 January 2025

DOCKET NUMBER: AR20240006011

APPLICANT REQUESTS:

- correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending on 23 October 2020 to reflect continuous service through 27 May 2022
- publish active duty orders for the period 24 October through 19 November 2020
- publish active duty orders for the period of 16 May 2021 through 27 May 2022 with corresponding DD Form 214

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

- DD Form 149 (Application for Correction of Military Record)
- State of North Carolina (NC) Office of the Adjutant General Orders Number 29-176-0136
- State of NC Office of the Adjutant General Orders Number 29-176-0136A01
- National Guard Bureau (NGB) Memorandums, Subject: Line of Duty (LOD) Determination (E-, A-, Sergeant (SGT) (the applicant)
- State of NC Office of the Adjutant General Orders Number 29-176-0136A2
- State of NC Office of the Adjutant General Orders Number 29-176-0136A3
- State of NC Office of the Adjutant General Orders Number 29-176-0136A4
- Headquarters (HQs), U.S. Army Medical Command Orders Number MM-0231-00026
- DD Form 214 for service ending 23 October 2020
- NGB Army National Guard (ARNG) Orders Number NG-0322-00002
- NGB ARNG Orders Number NG-0322-00002A01
- DA Form 3947 (Medical Evaluation Board (MEB) Proceedings)
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings)
- HQs, U.S. Army Physical Army Disability Agency (PDA) Orders Number D 117-85
- NCARNG AUGOE Army Element Joint Force Headquarters (JFH) Orders Number 1802565
- NGB Form 23A (ARNG Current Annual Statement), 10 June 2022

- State of NC Department of Public Safety JFHQ NC NG Memorandum, Subject: Request to Expedite Army Board for Correction of Military Records (ABCMR) in the Restoration of Medical Benefits, Pay and Allowances
- Department of the Army Mobilization Processing System (DAMPS) Order Audit
- the applicant's eCase Medical and Administrative Comments screenshot
- Department of Defense Instruction (DoDI) 1241.01 (Reserve Component (RC) Line of Duty Determination for Medical and Dental Treatments and Incapacitation Pay Entitlements)

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 that the DD Form 214 for the period ending on 23 October 2020 is incorrect because she remained on active duty until 27 May 2022 while she participated in the Wounded Warrior Program. Had her orders been correctly issued her DD Form 214 would properly reflect her continuous service on active duty. She also requests active duty orders for the period of 16 May 2021 through 26 May 2022 while recovering from injuries which were found to be in the line of duty. She is missing a minimum of 376-days of what should have been continuous Title 10 USC, section 12301 (h) active duty orders in accordance with DoDI 1241.01, Section 3, paragraph a-2 states "Reserve component service members on active duty or full time national guard duty for a period of more than 30-days, who has an unresolved line of duty condition will be retained on active duty until these conditions are resolved or he or she is found fit for duty, separated or retired as a result of a Disability Evaluation System finding." Therefore, she should have been allowed to be retained on active duty for the period of 16 May 2021 through the date she was placed on the Permanent Disability Retired List (PDRL) of 27 May 2022. She also referenced ABCMR Docket Number AR20220011892, where the applicant was granted relief for the correction of DD Form 214 to reflect continuous service for the period the applicant was retained on active duty from medical care.
3. A review of the applicant's service record shows:
 - a. On 28 February 2007, the applicant enlisted in the ARNG and had continuous service through extensions or reenlistments.
 - b. On 25 June 2019, Orders Number 29-176-0136, issued by the State of NC Office of the Adjutant General, the applicant was ordered to active duty in support of Operation

Enduring Freedom (Spartan Shield), effective 12 August 2019, for 400-days with an end date of 15 September 2020.

c. On 17 March 2020, Orders Number 29-176-0136A2, issued by the State of NC Office of the Adjutant General, amended the original orders published by the same command to change the period of active duty to 430-days with an end date of 15 October 2020.

d. On 9 June 2020, Orders Number 29-176-0136A3, issued by the State of NC Office of the Adjutant General, amended the original orders published by the same command to change the period of active duty to 483-days with an end date of 7 December 2020.

e. On 14 August 2020, Orders Number 227-0668, issued by HQs, U.S. Army Garrison, Fort Bliss, the applicant was released from active duty, not by reason of physical disability, effective 10 October 2020.

f. On 18 August 2020, Orders Number 29-176-0136A4, issued by the State of NC Office of the Adjutant General, amended the original orders published by the same command to change the period of active duty to 379-days with an end date of 25 August 2020.

g. On 18 August 2020, Orders Number MM-0231-00026, issued by HQs, U.S. Army Medical Command, the applicant was retained on active duty for 60-days, effective 25 August 2020 to participate in Reserve component warriors in transition medical retention processing program for completion of a medical evaluation with an end date of 23 October 2020 with duty at Fayetteville, NC.

h. On 19 August 2020, Orders Number 232-0537, issued by HQs, U.S. Army Garrison, Fort Bliss, revoked Orders Number 227-0668, issued by the same command pertaining to the applicant's release from active duty.

i. On 4 September 2020, HQs, U.S. Army Garrison, Fort Bliss Memorandum, Subject: Voiding DD Form 214 for E-, A-, SGT (the applicant), stated the DD Form 214 for the applicant was to be voided as she did not demobilize and went to the Soldier Recover Unit. Request the original DD Form 214 be destroyed by burning or shredding.

j. On 23 October 2020, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 1-year, 2-months, and 12-days of active service. It also shows in item 18 (Remarks) the applicant:

- served in in Kuwait for the period of 28 October 2019 through 25 July 2020

- period of service performed under Title 10 USC, section 12302 Orders Number 29-176-0136 through 29-176-0136A4 for 379-days
- retained under provision of Title 10 USC, section 12301 (h), Reserve component warriors in transition medical retention processing program for completion of medical evaluation for the period of 25 August through 23 October 2020, Orders Number MM-0231-00026

k. On 17 November 2020, Orders Number NG-0322-00002, issued by the NGB ARNG, the applicant was ordered to active duty, effective 18 November 2020, for 60-day to participate in Reserve component managed care-mobilization for managed medical care with an end date of 16 January 2021.

l. On 19 January 2021, Orders Number NG-0322-00002A01, issued by the NGB ARNG, amended the original orders issued by the same command to change the period of active duty to 179-days for an end date of 15 May 2021.

m. NGB Form 23A dated 9 April 2021 shows for the period of:

(1) 12 August 2019 through 27 February 2020, the applicant's Military Membership Status Identifier (MMSI) was B2 (ARNG Mobilized Service) for 15 membership points and 200 active duty points for 361 total points for retired pay.

(2) 28 February 2020 through 27 February 2021, the applicant's MMSI was B2 for 15 membership points and 366 active duty points for 381 total career points and 366 total points for retired pay.

(3) 28 February 2021 through date open, the applicant's MMSI was B2 for – membership points and 41 active duty points for --- total points for retirement.

The ARNG Retirement Points Statement Supplemental Detailed Report shows for active duty the applicant:

Beginning Date	End Date	Number of Points	Type
28 February 2020	28 February 2020	02	21
01 March 2020	15 March 2020	15	21
16 March 2020	31 March 2020	16	21
01 April 2020	15 April 2020	15	21
16 April 2020	30 April 2020	15	21
01 May 2020	15 May 2020	15	21
16 May 2020	31 May 2020	16	21
01 June 2020	15 June 2020	15	21
16 June 2020	30 June 2020	15	21
01 July 2020	15 July 2020	15	21

16 July 2020	31 July 2020	16	21
01 August 2020	15 August 2020	15	21
16 August 2020	24 August 2020	09	21
25 August 2020	30 September 2020	37	21
01 October 2020	15 October 2020	15	21
16 October 2020	23 October 2020	08	21

Gap in the applicant's retirement point detail report.

18 November 2020	30 November 2020	13	23
01 December 2020	15 December 2020	15	23
16 December 2020	31 December 2020	16	23
01 January 2021	15 January 2021	15	23
16 January 2021	31 January 2021	16	23
01 February 2021	15 February 2021	15	23
16 February 2021	28 February 2021	12	23

21 - Active Duty Other (tour 30 days or more)

23 - Active Duty Points (special tour)

n. On 15 May 2021, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 5-months and 28-days of active service. It also shows item 18: the applicant was ordered to active duty under Title 10 USC, section 12301 (h) to participate in Reserve component managed care – mobilization for medical care.

o. NGB Form 23A dated 11 April 2022 shows for the period of:

(1) 12 August 2019 through 27 February 2020, the applicant's MMSI was B2 (ARNG Mobilized Service) for 15 membership points and 200 active duty points for 361 total points for retired pay.

(2) 28 February 2020 through 27 February 2021, the applicant's MMSI was B2 for 15 membership points and 366 active duty points for 381 total career points and 366 total points for retired pay.

(3) 28 February 2021 through 15 May 2021, the applicant's MMSI was B2 for 0 inactive duty points, -- membership points and 77 active duty points for --- total points for retirement.

(4) 16 May 2021 through 27 February 2022, the applicant's MMSI was B1 (ARNG Unit Member) for 5 inactive duty points, 15 membership points and o-active duty points for 97 total points for retirement.

(5) 28 February through date open, the applicant's MMSI was B1 (ARNG Unit Member) for 0-inactive duty points, -- membership points and 0-active duty points for --- total points for retirement.

The ARNG Retirement Points Statement Supplemental Detailed Report shows for active duty the applicant:

Beginning Date	End Date	Number of Points	Type
28 February 2021	28 February 2021	01	23
01 March 2021	15 March 2021	15	23
16 March 2021	31 March 2021	16	23
01 April 2021	15 April 2021	15	23
16 April 2021	30 April 2021	15	23
01 May 2021	15 May 2021	15	23

For 11 (Inactive Duty Training/Unit Drill) the applicant was awarded retirement points for:

- one point for the afternoon of 15 October 2021
- one point for the morning of 16 October 2021
- one point for the afternoon of 16 October 2021
- one point for the morning of 17 October 2021
- one point for the afternoon of 17 October 2021

p. On 17 April 2022, the informal PEB found the applicant physically unfit for retention and recommended that she be placed on the PDRL with 40 percent disability for left tibialis anterior strain and herniation and exercise induced compartment syndrome in her left lower extremity, for 30 percent disability and ten percent disability for left knee condition with swelling, fluid retained in left lower leg mass. The applicant concurred with the findings of the PEB and waived a formal hearing.

q. On 27 April 2022, Orders Number D 117-85, issued by HQs, U.S. Army PDA, the applicant was released from her assignment and duty because of physical disability incurred while entitled to basic pay for conditions that permitted her retirement and placed on the PDRL, effective 28 May 2022, with 40 percent disability that was incurred in the line of duty in a combat zone or result of performing combat related operations.

r. On 3 May 2022, Orders Number 1802565, issued by the NC ARNG AUGOE Army Element JFHQ, the applicant was assigned to the U.S. Army Reserve (USAR) Control Group (Retired Reserve) for permanent disability, effective 28 May 2022.

s. On 28 May 2022, the applicant was honorably released from the ARNG and assigned to the USAR Control Group (Retired Reserve) for placement on the PDRL. NGB Form 22 (Report of Separation and Record of Service) shows the applicant completed 15-years and 3-months of service.

4. The applicant provides:

a. The applicant provided numerous orders in which she was ordered or retained on active duty for the period in question which have been discussed in paragraph three.

b. NGB Memorandum, Subject: Line of Duty Determination E-,A- (the applicant) SGT, dated 21 February 2020, stated the applicant's line of duty was approved for her left lower limb swelling mass and lump which occurred during Operation Enduring Freedom (Spartan Shield).

c. NGB Memorandum, Subject: Line of Duty Determination E-,A- (the applicant) SGT, dated 18 November 2020, stated the applicant's line of duty was approved for her right shoulder specified disorders of synovium and tendon, back muscle spasm which occurred during Operation Enduring Freedom (Spartan Shield).

d. DD Form 214 for service ending 23 October 2020 which has been discussed in paragraph three.

e. DA Form 3947 shows on 1 February 2022, the MEB found the applicant unfit for retention and referred her to a PEB for:

- left tibialis anterior strain and herniation which originated on 1 November 2019
- exercise induced compartment syndrome, left lower extremity which originated on 1 November 2019
- left knee condition with swell, fluid retained, left lower leg mass which originated on 1 November 2019

f. DA Form 199 which has been discussed in paragraph three.

g. NGB Form 23A (ARNG Current Annual Statement) dated 10 June 2022 shows for the period of:

(1) 12 August 2019 through 27 February 2020, the applicant's MMSI was B2 (ARNG Mobilized Service) for 15 membership points and 200 active duty points for 361 total points for retired pay.

(2) 28 February 2020 through 27 February 2021, the applicant's MMSI was B2 for 15 membership points and 366 active duty points for 381 total career points and 366 total points for retired pay.

(3) 28 February 2021 through 15 May 2021, the applicant's MMSI was B2 for 0 inactive duty points, -- membership points and 77 active duty points for --- total points for retirement.

(4) 16 May 2021 through 27 February 2022, the applicant's MMSI was B1 for 5 inactive duty points, 15 membership points and 0-active duty points for 97 total points for retirement.

(5) 28 February through 27 May 2022, the applicant's MMSI was B1 for 0-inactive duty points, 4 membership points and 0-active duty points for 4 total points for retirement.

h. State of NC Department of Public Safety JFH NC NG, Memorandum, Subject: Request to Expedite ABCMR in the Restoration of Medical Benefits, Pay and Allowances, dated 26 February 2024, stated the NC Adjutant General requested to expedite the restoration of medical benefits, pay and allowances for service members of the NCARNG who were mobilized with the 30th Armored Brigade Combat Team in support of Operation Enduring Freedom (Spartan Shield). Several service members were released from active duty experienced a break in service in their active duty orders which resulted in a lapse in medical care and the suspension of pay and allowances. This created severe hardship and duress to the service members and their families due to incurring out of pocket expenses for medical care and the loss of pay and benefits. In some cases, medical care was not provided. The NC NG attempted to rectify the issue for several years but had yet to receive any determination from the NGB to their requests.

i. DAMPS audit shows the applicant had a gap in the active duty orders for the period of 24 October through 19 November 2020 a period of 27-days.

j. Applicant's eCase Medical and Administrative Comments screenshot wherein the applicant highlighted:

- 18 November 2020 – active duty orders for the period of 18 November 2020 through 16 January 2020
- 7 January 2021 – Reserve Component Managed Care-Mobilization (RCMC-M) returned from NGB to State administration with note "service member is ineligible for the RCMC program with a 3 on the physical profile for the very injury seeking treatment

- 15 January 2021 – Soldier was discussed with NGB, determined she would need to have permanent profile terminated and issued a temporary profile in order to continue her orders, packet was revised and resubmitted to allow RCMC continuation
- 25 January 2021 – extension approved to end 15 May 2021
- 21 April 2021 – applicant asked what needed to be done to extend her orders, she was told her RCMC orders were maxed out to end on 15 May 2021; she needed to be assigned to the DES clinic at Walter Reed Medical Center to request orders

k. DoDI 1241.01 which provides guidance for Reserve Component medical and dental treatment for an injury or illness incurred or aggravated while in a qualified status.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, specifically, the facts outlined in the the State of NC Department of Public Safety JFH NC NG, Memorandum, Subject: Request to Expedite ABCMR in the Restoration of Medical Benefits, Pay and Allowances, dated 26 February 2024, the Board concluded there was sufficient evidence to grant the applicant's requested relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:XXX	:XXX	:XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	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 Army records of the individual concerned be corrected by:

- amend the applicant's DD Form 214, for the period ending 23 October 2020, by showing:
 - (BLOCK 12b) Separation Date this period: 24 August 2020
 - (BLOCK 12c) Net Active Service this period: 0001 00 13
- amending the applicant's mob order (Orders MM-0231-00026, dated 18 August 2020) to show an end date of 27 May 2022
- amend the applicant's DD Form 214, for the period ending 15 May 2021, by showing:
 - (BLOCK 12a) Date Entered AD this period: 25 August 2020
 - (BLOCK 12b) Separation Date this period: 27 May 2022
 - (BLOCK 12c) Net Active Service this period: 0001 09 02
 - (BLOCKED 12d) Total Prior Active Service: 0001 00 13

//SIGNED//

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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, 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. Army Regulation (AR) 635-8 (Separation Processing and Documents) provides that the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. When separation is ordered, the separation approval documents must be present for transition processing to occur. Source documents, as listed below, must be present in a Soldier's record in order to complete the DD Form 214. Source documents will consist of:

- Service Member's Record Brief
- Separation approval documents
- Separation order
- Any other document authorized for filing in the Army Military Human Resources Record

DD Form 214, Item 12b (Separation Date This Period) will contain 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. AR 600-8-105 (Military Orders) provides that orders are published to order individuals onto active duty or change the status of military personnel on active duty. Only the organization that published the original order may amend, rescind, or revoke the order. When there is no evidence of fraud or obvious error and the Soldier received actual or constructive delivery, orders discharging a Soldier from the service will not be revoked after the effective date of discharge unless the revocation is a written confirmation of verbal orders issued before the effective date of discharge. An order may be corrected by the organization that published the original order to show the true state of affairs existing at the time the original order was published. Orders may only be changed to reflect facts that existed when the original order was published.

4. Title 10 United States Code, section 12301 - Reserve components generally, (h)
(1) When authorized by the Secretary of Defense, the Secretary of a military department may, with the consent of the member, order a member of a reserve component to active duty:

- to receive authorized medical care;
- to be medically evaluated for disability or other purposes; or to complete a required Department of Defense health care study, which may include an associated medical evaluation of the member

(2) A member ordered to active duty under this subsection may, with the member's consent, be retained on active duty, if the Secretary concerned considers it appropriate, for medical treatment for a condition associated with the study or evaluation, if that treatment of the member is otherwise authorized by law.

(3) A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to active duty under this subsection only with the consent of the Governor or other appropriate authority of the State concerned.

//NOTHING FOLLOWS//