

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20240006576

APPLICANT REQUESTS:

- correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) ending on 2 November 2020, to reflect continuous service through 15 February 2021
- publication of orders for the period 3 November 2020 through 15 February 2021
- a personal appearance hearing before the Board via video or telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Defense Instruction (DoDI) Number 1241.01, 19 April 2016
- Orders Audit Spreadsheet
- Orders: 29-189-0024, State of North Carolina, Office of the Adjutant General, 8 July 2019, with amendments A1-A5
- DA Form 2173 (Statement of Medical Examination and Status), 8 May 2020
- Memorandum, National Guard Bureau (NGB), 1 July 2020
- Orders: MM-0211-00009, Headquarters, U.S. Army Medical Command, 29 July 2020, with amendment A1
- DA Form 2173, 21 September 2020
- Memorandum, Department of the Army U.S. Army Installation Management Command, Headquarters, U.S. Army Garrison, Fort Bliss, 28 September 2020
- Memorandum, NGB, 30 October 2020
- DD Form 214
- Orders: NG-1047-00005, NGB, Army National Guard, 16 February 2021, with amendment A1
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 4 October 2022
- Order D 277-04, Headquarters, U.S. Army Physical Disability Agency, 4 October 2022
- Order 0002109871.00, North Carolina Army National Guard, 25 October 2022
- NGB Form 23A (Army National Guard Current Annual Statement), 21 November 2022

- NGB Form 23A1 (Army National Guard Retirement Points Statement Supplemental Detailed Report), 21 November 2022
- DA Form 5016 (Retirement Accounting Statement), 20 December 2023
- Memorandum, State of North Carolina, Department of Public Safety, Joint Forces Headquarters, North Carolina Army National Guard, 26 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 she was not paid, did not accrue leave, or have sponsored benefits from 3 November 2020 to 15 February 2021, due to a gap between her Medical Retention Processing and Reserve Component Managed Care-Mobilization orders as a wounded warrior. She is missing approximately 3.5 months (105 days) of what should have been continuous Title 10 active duty, 12301(h) active duty recovery status IAW DoDI Number 1241.01, 19 April 2016. She is currently medically retired in the Retired Reserve. If corrected, she would have one continuous DD Form 214 with an end date of 13 August 2021.
3. A review of the applicant's service records and applicant provided evidence reflects the following:
  - a. Having 1 year, 2 months, and 14 days prior active service, the applicant entered active duty as a member of the Army National Guard of the United States on 19 August 2019. She was ordered to active duty in support of Operation Enduring Freedom (Spartan Shield), IAW Title 10, U.S. Code, Section 12302, and served in military occupational specialty 68W (Health Care Specialist).
  - b. Evidence shows the applicant served in Kuwait from 16 October 2019 to 5 July 2020, 8 months, and 20 days foreign service.
  - c. DA Form 2173, 8 May 2020, which notes the applicant was injured in the line of duty on 15 September 2019. Applicant reported hip pain while engaging in physical training and has been seen multiple times by the brigade physical therapist.
  - d. Orders: MM-0211-00009, Headquarters, U.S. Army Medical Command, 29 July 2020, which retained the applicant on active duty, Title 10, U.S. Code, Section 12301(H), to participate in Reserve Component Warriors in Transition Medical Retention Processing Program for completion of Medical Evaluation. The applicant was

to report on 5 August 2020 for a period of 60 days until 3 October 2020. These orders were amended extending her to 2 November 2020.

e. DA Form 2173, 21 September 2020, which notes the applicant was injured in the line of duty at Camp Buehring, Kuwait, on 27 April 2020. Applicant reported left shoulder pain x 1 day due to workout. Sharp and constant. Radiation to neck and down arm with numbness. 5/10 pain.

f. Memorandum, Department of the Army U.S. Army Installation Management Command, Headquarters, U.S. Army Garrison, Fort Bliss, 28 September 2020, in which the Adjutant General/Chief requested the applicant's DD Form 214 be voided/destroyed since the applicant did not demobilize, she moved to the Solider Readiness Unit.

g. DD Form 214 for the period 19 August 2019 to 2 November 2020.

h. Orders: NG-1047-0005, NGB, 16 February 2021, which ordered her to active duty under Title 10, U.S. Code, Section 12301 (H), for 90 days to participate in Reserve Component Managed Care-Mobilization for Managed Medical Care with an end date of 16 May 2021. The order was amended to change the end date of care to 13 August 2021.

i. DA Form 199, which shows she underwent an PEB on 20 September 2022.

j. Order D 277-04, Headquarters, U.S. Army Physical Disability Agency, 4 October 2022, ordered her permanent physical disability retirement effective 3 November 2022. Transferred to the Retired Reserve effective 4 November 2022.

### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board concluded the applicant sustained a LOD injury while deployed. She was subsequently placed on 12301(h) orders due to the LOD on 29 July 2020 prior to demobilizing. She had a break in orders from 2 November 2020 to 15 February 2021. The applicant should have been retained on medical orders until she was return to duty eligible or completed the Integrated Disability Evaluation System process. The applicant should have been on continuous Title 10, USC, section 12301(h) orders from 19 August 2019 to 13 August 2021.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

■	■	■	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 the Army and Army National Guard records of the individual concerned be corrected by:

- amending Orders Number MM-0211-00009, Headquarters U.S. Army Medical Command, dated 29 July 2020, to show 5 August 2020 through 13 August 2021
- entitlement to back pay and allowances as a result of this correction
- correction of her NGB Form 23A with applicable time
- amendment of her DD Form 214 to show in:
  - item 12b: 13 August 2021
  - item 12c: 1 year, 11 months, and 26 days



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 635-8 (Separation Processing) provides that the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty.

a. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of REFRAD, 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

b. 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. Army Regulation 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. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions.

Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//