

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 March 2025

DOCKET NUMBER: AR20240006670

APPLICANT REQUESTS:

- service credit for over 90 days of active service
- correction of rank to specialist (SPC)/E-4
- medical records from the Fort McClellan infirmary from November 1983
- issue of a DD Form 214 (Certificate of Release or Discharge from Active Duty)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- National Personnel Record Center, dated 7 June 2022
- Congressional Liaison and Inquiries letter, dated 21 February 2024
- Notice of Initiation of Elimination Proceeding, dated 8 November 1983
- Acknowledgement of Notification, dated 8 November 1983
- Medical Records
- [REDACTED] dated 30 April 2020
- Letter to Significant Other
- In Service Photos (4)

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 he is requesting a DD Form 214 for over 90 days of active duty. The records he has received in the past are incomplete. He served in Ft. Snelling from May 1983 through August 1983 and did not receive a DD Form 214. Additionally, his rank was specialist. He also needs his medical records from the infirmary from November 1983. He has received an incomplete copy of his records from the National Archives.

3. The Board is not an investigative body and neither houses nor maintains military records. Based on this information, the applicant's request for medical records will not be discussed any further in this Record of Proceedings.

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

a. He enlisted in the USAR on 15 March 1983.

b. His DA form 2-1 (Personnel Qualification Record) shows his rank listed as private (PV1), E-1, with an effective date of 15 March 1983.

c. He was ordered to Initial Active Duty for Training (IADT) with IADT Order Number 55-15, dated 15 March 1983, under Section 672(d), Title 10, United States Code, with the below listed report dates:

- 20 September 1983 – Basic Training
- 25 November 1983 – IADT (12 weeks)

d. A DA Form 2496 (Disposition Form) was completed on 20 October 1983, which states the applicant was not eligible for a military occupational specialty (MOS) requiring a security clearance due to the applicant lacking citizenship.

e. On 8 November 1983, the applicant's immediate commander notified the applicant of his intent to separate him under the provisions of Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), Chapter 7 for erroneous enlistment.

f. On 8 November 1983 the applicant acknowledged receipt of the notification. He indicated he desired to be separated from the U.S. Army and did not desire to be retained in an alternate MOS.

g. The immediate commander initiated separation action against the applicant for commission of a serious offense and a pattern of misconduct. The reasons for his proposed action were the applicant enlisted for MOS 35K and could not obtain the MOS because of security requirements. The applicant elected not to choose an alternate MOS which subsequently voided his contract.

h. On 14 November 1983, consistent with the chain of command recommendation, the separation authority approved the discharge recommendation for immediate separation under the provisions of AR 635-200, Chapter 7. He would be issued an entry level separation (Uncharacterized).

i. Orders 220-86 dated 14 November 1983 released the applicant from active duty with an effective date of 17 November 1983.

j. Orders 220-87 dated 14 November 1983, discharged the applicant from the USAR with an effective date of 17 November 1983.

k. The available service record is void a DD Form 214; however, an incomplete and unsigned DD Form 220 (Active Duty Report) dated 17 November 1983 shows the applicant served on active duty from 23 September 1983 through 17 November 1983 (1 month and 26 days).

4. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

5. By regulation, (AR 635-8) 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. The information entered thereon reflects the conditions as they existed at the time of separation. Paragraph 5-1c. states a DD Form 214 will be prepared for Soldiers in the Reserve Component (RC) separated for cause or physical disability regardless of the length of time served on active duty.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation.

a. Issue a DD Form 214. Grant. The Board determined the applicant served a period of service qualifying him for issuance of a DD Form 214 for the period 23 September 1983 to 17 November 1983, a period of 1 month and 26 days. His service will be uncharacterized with an entry level status narrative reason for separation. His rank will be PVT/E-1 with an effective date of rank as 15 March 1983.

b. Service Credit for Over 90 Days of Service. Deny. The Board determined the applicant served a period of active duty of 1 month and 26 days and there is insufficient evidence to support any additional amount of active duty service. Therefore, the Board denied this portion of the applicant's request.

c. Correction of his rank to SPC/E-4. Deny. The Board determined the applicant's rank on his DA Form 2-1 reflects PVT/E-1 and there is insufficient evidence to support his advancement to SPC/E-4. Therefore, the Board denied this portion of the applicant's request.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by generating a DD Form 214, for the period 23 September 1983 to 17 November 1983, a period of 1 month and 26 days. His service will be uncharacterized with an entry level status narrative reason for separation. His rank will be PVT/E-1 with an effective date of rank as 15 March 1983

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any additional amendments of his DD Form 214 in excess of the above.


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.

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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. 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.

3. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, states 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. The information entered thereon reflects the conditions as they existed at the time of separation. Paragraph 5-1c. states a DD Form 214 will be prepared for Soldiers in the Reserve Component (RC) separated for cause or physical disability regardless of the length of time served on active duty.

//NOTHING FOLLOWS//