

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 February 2025

DOCKET NUMBER: AR20240007647

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending on 10 June 2016, item 18 (Remarks) to reflect "member has completed first full term of service" rather than "member has not completed first full term of service"
- a personal appearance (video or telephonically)

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

- DD Form 149 (Application for Correction of Military Record)
- Resume and Press Release
- Transcript
- DD Form 214, ending 10 June 2016
- Department of Veterans Affairs Documents and Medical Information

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 in pertinent part that his DD Form 214 incorrectly reflects that he failed to complete his first full term of service. He contests that he was released a day early despite completing his last day of extra duty on 10 June 2016 noting that his enlistment contract expired on 11 June 2016; he received nonjudicial punishment under Article 15 of the Uniformed Code of Military Justice (UCMJ) due to testing positive for the use of marijuana. This misrepresentation of his military service has impacted his post military opportunities. Correcting this error will properly align his personnel records with the actual terms of his military service.

3. A review of the applicant's available service records reflects the following:

a. On 12 March 2012, the applicant enlisted in the Regular Army for 4 years with duty as a 25S (Satellite Communication Systems Operator-Maintainer).

b. On 16 February 2016, an adverse action flag was initiated.

c. On 1 March 2016, another adverse action flag was initiated (drug abuse).

d. On or about 19 April 2016, the applicant accepted non-judicial punishment under the provisions of Article 15, UCMJ, for violating Article 112a. in that between on or about 17 January 2016 – 16 February 2016, he wrongfully used marijuana, a schedule I controlled substance. In result, the applicant was required to perform 30 days of extra duty.

e. On 28 April 2016, another flag was initiated (Involuntary Separation).

f. On or about 26 May 2016, the applicant's immediate commander notified the applicant of his proposed separation action in accordance with Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), Chapter 14-12c.(2) (Misconduct – Abuse of Illegal Drugs). And on the same day the applicant acknowledged receipt of the proposed separation action.

g. On 1 June 2016, the applicant's commander initiated separation action against the applicant under the provisions of AR 635-200, chapter 14-12c.(2). The applicant consulted with counsel and was advised of his rights. He did not submit statements in his own behalf.

h. On 8 June 2016, the applicant's Group Commander directed that he be separated from military service prior to reaching his current expiration term service with further instructions of not being transferred to the U.S. Army Reserve Control Group (Individual Ready Reserve).

i. On 9 June 2016, the Directorate of Human Resources, Military Personnel Division issued Orders Number 161-0025 reassigning the applicant to the U.S. Army transition point pending separation processing.

j. On 10 June 2016, the applicant was discharged from the U.S. Army in accordance with AR 635-200, Paragraph 14-12a. (Misconduct – Minor Infractions). DD Form 214, item 18 (Remarks) reflects that the applicants "extension of service was at the request and for the convenience of the government; member has not completed first full term of service."

k. On 23 May 2023, the Army Discharge Review Board (Docket Number AR20210002175) directed that the applicant's characterization of service be upgraded

from "Under Honorable Conditions (General)" to "Honorable" and his Narrative Reason for Separation be changed from "Misconduct (Drug Abuse)" to "Misconduct - Minor Infraction."

4. The applicant provides the following a:

a. Resume and Press Release, reflective of the applicant's professional history and personal accomplishments.

b. Transcript reflective of the applicant's Master of Science (Cybersecurity) degree being conferred by Western Governors University on 18 September 2023.

c. Department of Veterans Affairs Documents and Medical Information reflective of information pertaining to the applicant's rating decision and previous medical history. These documents are further provided in their entirety for the Board members review within the supporting documents.

5. The applicant's Army Military Human Resource Record is void of any enlistment contract retaining the applicant on active duty after the initial enlistment period. The applicant's DD Form 214 reflects extension of service was at the request and for the convenience of the government.

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 applicant's record showing he originally enlistment for a 4-year term and he completed that term prior to any adverse action being taken against him by his command leadership, the Board concluded there was sufficient evidence warranting a correction to the applicant's DD Form 214 to show he completed his first term of service.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:X	:X	:X	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 amending the applicant’s DD Form 214 by:

- (BLOCK 18) delete the entry, “MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE”
- (BLOCK 18) add the entry, “MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE.”

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, 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. AR 635-8 (Separation Processing and Documents) provides that the DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. The DD Form 214 is not intended to have any legal effect on termination of a Soldier's service. DD Form 214, item 18 (Remarks) will reflect Headquarters Department of the Army mandatory requirements when a separate block is not available. As a mandatory entry, the statement "Soldier (has) or (has not) completed first full term of service" will be listed. This information assists the State in determining eligibility for unemployment compensation entitlement. The following guidance will help determine which entry to use:

- a. To determine if an enlisted Soldier has completed the first full term of enlistment, refer to the enlistment contract and any extensions to those initial enlistment documents

and compare the term of enlistment to the net service in block 12c of the DD Form 214. If Soldier has completed or exceeded the initial enlistment, enter "has" If block 12c of the DD Form 214 is less than the Soldier's commitment, enter "has not."

b. A Regular Army Soldier should not be considered to have completed the first full term of service if separation occurs before the end of the initial contracted period of service. However, if a Soldier reenlists before the completion of that period of service, the first term of service is effectively redefined by virtue of the reenlistment contract. A prior service enlistee is considered to be on a second term of military service, even if that Soldier fails to complete the current term of service, the appropriate entry is "has."

c. For Soldiers retained past Expiration Term Service, enter "Retained in Service (specify number of days) for the convenience of the government per (authority for retention)."

3. AR 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 may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//