

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 April 2025

DOCKET NUMBER: AR20240008053

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his enlistment date as 8 August 1980.

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant Letter
- DD Form 4 (Enlistment/Reenlistment Document-Armed Forces of the United States)
- DD Form 214
- Department of Veterans Affairs Information (one page)

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 in effect, his enlistment date should be 8 August 1980 instead of November 1980. That will make him eligible VA benefits. He joined before 8 September 1980 and entered the service before 16 October 1981. He should qualify for VA benefits under the minimum duty requirements. He needs a DD Form 215 (Correction to DD Form 214). He just found his original enlistment paperwork.

3. The applicant provides a VA minimum duty requirements information page that shows no minimum time in service requirement exists for those who joined before 8 September 1980. Veterans who enlisted after 7 September 1980 or who entered active duty after 16 October 1981 must have served 24 continuous months for the full period for which they were called to active duty.

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

a. The applicant's DD Form 4 shows he enlisted in the U. S. Army Reserve (USAR) delayed entry program (DEP) on 8 August 1980. He was discharged from the DEP and enlisted in the Regular Army on 18 November 1980.

b. He was counseled on 1 April 1981 regarding his conduct and appearance and that as a Soldier, he was not up to standard.

c. A statement from sergeant first class/SFC [REDACTED] 21 April 1981 shows the applicant was absent from the School of the Soldier on 18 April 1981, which he was told to attend.

d. The applicant accepted nonjudicial punishment under Article 15 of the Uniform Code of Military Justice (UCMJ) on 23 April 1981 for, without authority, failing to go at the time prescribed to his appointed place of duty on or about 18 April 1981.

e. The applicant was counseled on 29 April 1981 for missing bed check and for failing to perform his extra duty.

f. Report of Mental Status Evaluation, 6 May 1981 shows the did not have significant illness, was mentally responsible, able to distinguish right from wrong, able to adhere to the right, had the mental capacity to understand and participate in board proceedings and met retention standards.

g. The applicant's commander notified him he was initiating action to separate him under the provisions of Army Regulation 635-200, Paragraph 5-33, Trainee Discharge Program (TDP), 7 May 1981. His reasons for the proposed action were the applicant's inability to socially and emotionally adapt to the military way of life. He recommended an honorable characterization of service.

h. The applicant acknowledged notification of the proposed honorable separation from the U. S. Army and did not desire to make statements or submit a rebuttal in his behalf.

i. His commander recommended the applicant be separation with an honorable discharge certificate. His chain of command concurred with the recommendation.

j. The applicant's discharge was approved, and he would receive an honorable discharge.

k. He was honorably discharged on 14 May 1981. His DD Form 214 shows he was discharged under AR 635-200, Paragraph, 5-33, TDP (marginal or nonproductive). He completed 5 months and 27 days of net active service.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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. The evidence presented does not demonstrate the existence of a probable error or injustice. The Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. The Board notes that based on Army Regulation 601-210, the applicant's service in the delayed entry program did not count for active duty time toward service credit. Therefore, based on a preponderance of the evidence, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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.

5/5/2025

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CHAIRPERSON

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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 635-5 (Personnel Separations-Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. The information entered thereon reflects the conditions as they existed at the time of separation. It states for 12a (Date Entered AD This Period) enter the first date of the Soldier's enlistment.

3. Army Regulation 601-210 (Personnel Procurement Regular Army Enlistment Program), 1 October 1980, states:

a. Section XIII. Delayed Entry Program (DEP). Chapter 4-56. Terms of service and authorized pay grades. Initial DEP enlistment incurs a 6-year military service obligation (MSO). MSO time begins on the RA enlistment date. RA enlistment will be for a period authorized by the RA enlistment option as entered on DA Form 3286-40 (Statements for Enlistment-DEP).

b. Pay entry base date. Six digits showing year, month, and day denoting pay entry date determined from previous creditable service for basic pay. Determine pay entry dates as follows: Enter the date of enlistment in the Regular Army for applicants with no prior active or inactive service.

//NOTHING FOLLOWS//