

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 February 2025

DOCKET NUMBER: AR20240008169

APPLICANT REQUESTS: correction of his DD Form 214 (Report of Separation from Active Duty) to remove a reference to excess leave in item 27 (Remarks).

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214

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 his excess leave should be removed from item 27 of his DD Form 214. On 29 December 1975 to 5 January 1976, he was in the Army hospital on base at Fort Knox, KY with pneumonia. The excess leave from 19-22 January 1976 should be removed because it occurred during his service period.

3. A review of the applicant's record shows:

a. He enlisted in the Regular Army on 23 December 1975.

b. His DA Form 2496-1 (Disposition Form), 27 January 1976, shows he was recycled due to emergency leave from 19 to 22 January 1976 and hospitalization from 23 to 26 January 1976.

c. Special Orders Number 18, 27 January 1976, assigned the applicant to Company B, 16th Battalion, 4th Training Brigade, Fort Knox, KY, with a reporting date of 27 January 1976, for the purpose of completing training.

d. A DA Form 2476 (Application for Separation – Hardship or Dependency), 6 February 1976, shows the applicant's wife had developed extreme nervous conditions and was on the verge of a mental breakdown, in addition to financial hardships.

e. A DA Form 4187 (Personnel Action) shows on 9 February 1976, the immediate commander recommended approval for the applicant's dependency/hardship separation request. The applicant made numerous attempts to resolve his wife's mental health problems; however, it was in the best interest of the applicant that he be released from military service. The intermediate commander recommended approval.

f. On 19 February 1976, consistent with the chain of command recommendations, the separation authority approved the applicant's request for immediate separation under the provisions of AR 635-200, Chapter 6, for hardship/dependency.

g. On 1 March 1976, he was honorably discharged from active duty. His DD Form 214 shows he completed 2 months and 9 days of active service. It also shows in Block 27 (Remarks), "Excess Leave – 29 December 1975-5 January 1976, 19-22 January 1976."

4. By regulation (AR 635-5), 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.

BOARD DISCUSSION:


After reviewing the application and all supporting documents, 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 Board noted the applicant's contention that the entry "Excess Leave – 29 December 1975–5 January 1976, 19–22 January 1976" on his DD Form 214 is inaccurate. He asserts that he was hospitalized for pneumonia during the first period and that the second period occurred during his active service and should not be characterized as excess leave. However, the Board found insufficient evidence to support the applicant's contention and concluded relief was not warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:XX	:XX	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.



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 635-5 (Separation Documents), 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. For Block 30 (Remarks), use this section to complete entries too long for their respective blocks. Among the required entries for enlisted personnel, the directions for completion of this item state to enter inclusive dates of excess leave. Example: "Excess leave of 5 days from 5 NOV thru 9 NOV 57."

3. Army Regulation 600-8-10 (Leaves and Passes) prescribes the policies and mandated operating tasks for the leave and pass function of the Military Personnel System. Excess leave is a nonchargeable absence granted for emergencies or unusual circumstances that includes Soldiers pending an administrative discharge. The regulation specifies that excess leave is without pay and allowances.

//NOTHING FOLLOWS//