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DISCHARGE—TRANSFER—DEPT' OF DEFENSE FORM No.
214 ENTITLED TO RECORD UNDER §317.24 RC.

SYLLABUS:

Department of Defense Form 214, Armed Forces of the United States Report of Transfer or Discharge, is an instrument of discharge from the Armed Forces entitled to record under the provisions of Section 317.24, Revised Code.

Columbus, Ohio, June 6, 1957

Hon. John S. Ballard, Prosecuting Attorney
Summit County, Akron, Ohio

Dear Sir:

I have before me your communication requesting my opinion on the following question:

“Is Department of Defense Form 214 Armed Forces of the United States Report of Transfer or Discharge an instrument entitled to be recorded under the provisions of Section 317.24, Revised Code?”

Section 317.24, Revised Code, provides:

“Upon request of any discharged member of the armed forces and presentation of his discharge, the county recorder shall record such discharge in a book to be furnished by the board of county commissioners for that purpose. There shall be no fee for such recording. Such record, or a certified copy thereof, shall be received in evidence in all cases where the original discharge would be received.”

Procedural Directive, Armed Forces of the United States Report of Transfer or Discharge—DD Form 214, Third Edition, Change Sheet No. 3, August 29, 1956, provides, in pertinent part, as follows:

“1. Authorization:

By the Department of Defense January 1, 1950, revised July 1, 1952, and November 1, 1955, to rearrange the record content and change the title of the form.

“2. Purpose:

To enable the Director of Selective Service to give debit to States and subdivisions thereof for their residents who are separated from active duty (other than active duty for training under the Reserve Forces Act of 1955) in the Armed Forces of the United States, to enable local boards properly to classify registrants on the basis of their active military service, *and to advise the person being separated and interested Federal agencies of the pertinent details of the active duty of the individual concerned.*

“4. Distribution:

The copy of the form for the Selective Service System is forwarded directly to the State Director of Selective Service having jurisdiction over the person's local board or home of record at time of entry into active service, in that order. The State Director records the receipt of the forms for quota and call purposes, and forwards them to the appropriate local boards within his jurisdiction. Reports of Transfer or Discharge for registrants are filed in their cover sheets after the dates of separation from active duty have been posted in the appropriate column of the Classification Record (SSS Form No. 102). A separate alphabetical file is maintained for DD Forms 214 for nonregistrants.”

(Emphasis added.)

Your communication calls my attention to Opinion No. 559, Opinions of the Attorney General for 1945, p. 715. The syllabus provides as follows:

“Any instrument accompanying the discharge of a member of the armed forces which purports to contain information as to length or character of his service or the circumstances of his discharge, and which is authenticated by the signature of a military officer, *should be recorded as a part of the discharge under the provisions of Section 2770 of the General Code. Opinion No. 514, dated October 20, 1945 modified.* See Opinions Attorney General 1945, page 661.”

(Emphasis added.)

Army Regulation 635-200, Change Sheet 4, 25 February 1957, provides in pertinent part:

“Personnel Separations, General Provision for Discharge and Release.

“6. Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) (a) individuals who are *discharged or released from active duty will, in addition to a discharge certificate or a certificate of service as provided in paragraphs 4 and 5,* be furnished a factual record of military service rendered, the character and duration thereof, and the type of separation on DD Form 214, except that enlisted members of the reserve components ordered to active duty for a period of 90 days or less, will not be furnished a DD Form 214.

* * *

(Emphasis added.)

Since DD Form 214 contains information as to the length and character of service and the circumstances of discharge or release from active

duty authenticated by the signature of a military officer, if accompanied by an instrument of discharge severing all relations with military service, it is entitled to record in conformity with the 1945 opinion, *supra*.

The question remains as to whether or not DD Form 214 presented without another document is entitled to record.

In the opinion of my predecessor, Opinion No. 514, Opinions of the Attorney General for 1945, p. 661, the first paragraph of the syllabus reads as follows:

“Any instrument issued by the military authorities to a member of the armed forces which purports to evidence his discharge, dismissal or separation from service is entitled to record under the provisions of Section 2770, General Code.”

It is noted that DD Form 214 is given upon discharge from active duty and sets out a factual record of a person's active service. The crucial consideration involved in securing Veteran's Benefits under our laws is active military service. Veteran's Administration Manual M3-2, for Contact Representatives, raises this question:

“What is the meaning of Honorable Discharge? Answer, in general. ‘Honorable Discharge’ indicates separation from *active duty* in any branch of the Armed Forces under honorable or satisfactory conditions.” (Emphasis added.)

In Opinion No. 6951, Opinions of the Attorney General for 1944, p. 306, the problem was discussed with reference to members of the armed forces who had satisfactorily completed the required period of active service in the Army of the United States and were given what is called a certificate of service, the servicemen being then transferred to a reserve component. The question raised was whether this certificate of service was equivalent to an honorable discharge so as to entitle a soldier having received such certificate to relief under the Soldiers' Relief Statutes, Section 2930, *et seq.*, General Code.

That opinion set out the following Army Regulations:

“W. D., A.G.O. Form No. 280—Certificate of Service. Form No. 280 ‘will be issued to each Reserve Officer and Reserve nurse; commissioned officer, warrant officer, and enlisted man of the National Guard of the United States; member of the Enlisted Reserve Corps and of the Regular Army Reserve; and trainee inducted under the Selective Training and Service Act

of 1940, who satisfactorily completes the required period of active military service in the Army of the United States or who is honorably separated from the military service or honorably relieved from active Federal service prior to the completion of the required period of service, except that in all cases when a W. D., A.G.O. Form No. 55 (Honorable Discharge Certificate) is furnished, a W. D., A.G.O. Form No. 280 will not be prepared. * * * ”

The opinion held that such certificate of service was equivalent to an honorable discharge, for the purpose of the Soldiers' Relief Law.

There is no doubt that DD Form 214 indicates the character and completion of active military service, even though the individual concerned faces the possibility of a recall to active service.

The question of the nature and effect of a "certificate of service" was discussed in Opinion No. 571, Opinions of the Attorney General for 1945, p. 721. The question raised was as follows:

"(5) If a member of the 'armed forces' is transferred to the reserve armed forces of the United States and does not receive a certificate of honorable discharge, may the Retirement Board grant military service credit under the provisions of Section 7896-1a in the absence of such discharge? If so, what date should be accepted in evaluating such service in lieu of the date of discharge?"

The fifth paragraph of the syllabus reads as follows:

"For the purpose of Section 7896-1a, General Code, a 'certificate of service' whereby a member of the military forces is released from *active* service and is *transferred* to the army or naval *reserve*, is equivalent to an honorable discharge."

(Emphasis added.)

It is my opinion that in enacting Section 317.24, Revised Code, the legislature intended that a member of the armed forces released from active duty be afforded a means of preserving a record of his military service so that he could produce evidence of the fact that such a record existed in the event of loss of the original. The record most important for preservation is one which gives data regarding *active service*, since the length and character of active service is the crucial consideration in determining whether a person is entitled to Veteran's benefits under our laws. DD Form 214 contains such information and its recording is,

therefore, of manifest importance. In many cases this is the only instrument which provides such information with respect to type of transfer or discharge, character of service, length of service, selective service board, enlistment data, home of record at time of entry into active service, decorations, allotments, and the authentication, that a person being transferred from *active* to *reserve* duty receives.

The statute providing that discharges were to be recorded without fee was originally enacted March 23, 1865 (62 Ohio Laws, 59). Since that date the armed forces have used many different instruments of discharge. It appears that these various instruments have been used because of the differing circumstances surrounding a particular release. The military has had to alter these instruments to reflect a conformity with the federal laws relating to a continuing military obligation following release from active service.

For those reasons, you are advised that it is my opinion that Department of Defense Form 214, Armed Forces of the United States Report of Transfer or Discharge, is an instrument of discharge from the Armed Forces entitled to record under the provisions of Section 317.24, Revised Code.

Respectfully,
WILLIAM SAXBE
Attorney General