

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 1 December 2023

DOCKET NUMBER: AR20230004493

APPLICANT REQUESTS: the following corrections to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge):

- Item 1 (Last Name, First Name, Middle Name) – delete the current middle name of "GY__," and replace it with "GW__"
- Items 5a (Grade, Rate, or Rank) and 5b (Pay Grade) – delete the current entries and replace with "SP5" and "E-5"
- Item 9 (Date of Birth) – replace the last digit of his birth year to show "3," vice the current number
- Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – add the Army Good Conduct Medal (1st Award), Vietnam Service Medal, and "Excellent Sharpshooter" award

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- Birth Certificate
- DA Form 2166-4 (Enlisted Efficiency Report)
- DD Form 4 (Enlistment Contract – Armed Forces of the United States)
- Memorandum
- Reserve Components Personnel and Administration Center (RCPAC) Orders
- DA Form 20 (Enlisted Qualification Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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's requested relief for the correction of his birth year on his DD Form 214, ending [REDACTED], is supported by sufficient evidence; as a result, this portion of the requested relief will be addressed in the "ADMINISTRATIVE NOTES" section and will not be considered by the Board.
3. The applicant states he is unsure of the cause, but the Army failed to properly reflect the above-cited information on his DD Form 214; he was told they were "in process of making corrections but never made them."
4. A review of the applicant's service record reveals the following:
 - a. On 4 September 1970, the applicant's parents signed a DD Form 373 (U.S. Armed Forces – Consent, Declaration of Parent or Legal Guardian) wherein they certified they were the applicant's parents, that the applicant's date of birth on the form was correct, and that they consented to the applicant's enlistment into the Regular Army. The form indicates the applicant's middle name is "GY___."
 - b. On 11 September 1970, the applicant enlisted into the Regular Army for 3 years; the applicant's DD Form 4 shows the same middle name as is listed on his DD Form 373. Upon completion of initial entry training and the award of military occupational specialty 76W (Petroleum Storage Specialist), orders assigned him to a supply and transportation battalion in Germany; he arrived at his new unit, on or about 1 February 1971. Effective 7 April 1971, the applicant's leadership promoted him to specialist four (SP4)/E-4.
 - c. On 18 June 1973, the applicant's command completed a DA Form 2496 (Disposition Form) generated by the supporting personnel unit. On the form, the applicant's command affirmed the applicant's conduct and efficiency was "Excellent" and recommended him for the Army Good Conduct Medal; the form lists the applicant's rank as SP4.
 - d. In or around August 1973, and based on permanent change of station orders, the applicant began clearing local organizations in preparation for his transfer to Fort Dix for separation processing. The applicant's DA Form 137 (Installation Clearance Record) includes his commander's declaration that the applicant's conduct and efficiency had been "Excellent," and the applicant was "favorably considered for the Good Conduct Medal"; the form states the applicant's rank is SP4.
 - e. On 4 September 1973, orders honorably released the applicant from active duty and transferred him to the U.S. Army Reserve to complete his remaining military service obligation. His DD Form 214 shows he completed 2 years, 11 months, and 24 days of net active duty service; the form additionally states the following:

- Item 1 – the applicant's middle name is "GY__"
- Items 5a (Grade, Rate, or Rank) and 5b (Pay Grade) – SP4/E-4
- Item 12c (Foreign and/or Sea Service) – 2 years, 7 months, and 3 days
- Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – National Defense Service Medal, Expert Infantryman Badge, and Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Item 30 (Remarks) – indicates the applicant's foreign service was in "USAREUR" (U.S. Army, Europe)

f. The applicant's available service record is void of General Orders awarding him the Army Good Conduct Medal, and there are no orders promoting him to E-5. Additionally, the applicant's DA Form 20 does not show a promotion to E-5; the only foreign service indicated is for Germany; and the Army Good Conduct Medal and an "Excellent Sharpshooter" award are not listed.

5. The ABCMR has an interest in maintaining the accuracy of its records; for historical purposes, the data and information contained in those records should reflect the conditions and circumstances, as they existed at the time of the records' creation.

6. Army Regulation (AR) 15-185 (ABCMR), currently in effect, states the ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning there is a greater than a 50 percent chance that what an applicant's claims is accurate.

7. AR 600-8-22 (Military Awards), currently in effect, state the Vietnam Service Medal is awarded to all Servicemembers of the Armed Forces of the United States who served in Vietnam between 3 July 1965 and 28 March 1973. Qualifying service also included temporary duty in Vietnam for 30 consecutive days or 60 nonconsecutive days.

8. During the applicant's era of service, Army Regulation (AR) 672-5-1 (Awards), prescribed policies and procedures for military awards; it stated the following:

a. The Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940. For the first award only, commanders could award the Army Good Conduct Medal, upon termination of the Soldier's service on or after 27 June 1950, if he or she had served less than 3 years but more than 1 year. Additionally, the Soldier had to have had all

“Excellent” conduct and efficiency ratings and no court-martial convictions. Orders announced the authorization for this award.

b. Basic Marksmanship Qualification Badges. A basic marksmanship qualification badge was awarded to reflect the degree an individual had qualified on a prescribed weapons record course, and there were three classifications: expert, sharpshooter, and marksman. The regulation did not show a badge titled, "Excellent Sharpshooter"; however, Soldiers could qualify for the following additional marksmanship awards:

- U.S. Distinguished International Shooter Badge, based the results of an international competition
- Distinguished Rifleman Badge or Distinguished Pistol Shot Badge, for those who demonstrated a preeminent degree of achievement in target practice firing using a military service rifle or pistol; the individual had to have earned 30 credits in accordance with AR 622-10 (Competition in Small Arms)
- Excellence in Competition Badges, awarded in recognition of achievements in target practice while firing a standard military service rifle or pistol during National competitions, Army Championships, or Interservice Championships
- President's Hundred Tab, awarded to each person who qualified among the top.100 successful contestants in the President's Match, held annually at the National Rifle Matches

BOARD DISCUSSION:

1. 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 contentions, the military record, and regulatory guidance. After due consideration of the request, the Board agreed that the applicant's record reflects an error in the recording of his middle name and a correction to the spelling of his middle name is warranted.

2. The Board further determined 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 relief without benefit of the review described above.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD214 for the period ending █ to show in:

- Item 1 (Last Name, First Name, Middle Name) – delete the current middle name of "█" and replace it with "█"

2. The Board further determined the evidence presented 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:

- Item 5a (Grade, Rate, or Rank) and 5b (Pay Grade) – delete the current entries and replace with "SP5" and "E-5"
- Item 9 (Date of Birth) – replace the last digit of his birth year to show "3," vice the current number
- Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – add the Army Good Conduct Medal (1st Award), Vietnam Service Medal, and "Excellent Sharpshooter" award

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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.

ADMINISTRATIVE NOTE(S):

1. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures for the preparation of the DD Form 214. Concerning entries in item 9 (Date of Birth), the regulation stated DD Form 214 preparers were to draw information from the Soldier's DA Form 20 as well as all available documents in the Soldier's military personnel record.

2. The evidence of record shows the applicant's correct year of birth ends in "3."

3. Based on the foregoing, amend the applicant's DD Form 214, ending [REDACTED], by deleting the current birth year in item 9, and replacing it with the birth year displayed on the applicant's DD Form 373 and DD Form 4.

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 15-185, currently in effect, states the ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence.

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//NOTHING FOLLOWS//