

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 November 2023

DOCKET NUMBER: AR20230005189

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show his date of birth (DOB) as 17 Month Year (DOB A) instead of 18 Month Year (DOB B).

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

- DD Form 149 (Application for Correction of Military Record), 21 February 2023
- DD Form 214, 30 April 1968
- State of New Mexico Birth Certificate
- State of New Mexico Driver's License
- US Department of State Passport Card
- State of New Mexico, 5th District Court Order, 17 March 2017

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 DOB is listed incorrectly on his DD Form 214

3. The applicant provides copies of his:

- DD Form 214, 30 April 1968, showing DOB B
- State of New Mexico, Health and Environment Department, Certificate of Birth, showing DOB A
- State of New Mexico Driver's License
- US State Department Passport Card
- State of New Mexico County Court Order, 17 March 2017

4. A review of his service records and the documents contained therein, shows all documents record DOB B, including, but not limited to:

- DD Form 4 (Enlistment Record – Armed Forces of the United States), 2 October 1967
- DD Form 98 (Record of Emergency Data), 2 October 1967
- DD Form 214, 30 April 1968

5. Army Regulation 635-5 (Separation Documents), instructions on entries to Item 9 (Date of Birth): self-explanatory, meaning enter the Date of Birth in "00" days, "XXX" months, and "00" years.

#### 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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence show he used the contested date of birth during his service. There isn't at least one document in his available service record to corroborate the use of the requested date of birth during his service. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. There is no evidence the applicant used the requested date of birth during his military service. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created, unless there is sufficient evidence that shows a material error or injustice.

2. This Record of Proceedings, will be filed in his military record in order to provide clarity and to deal with any confusion that might arise regarding the difference in his date of birth. Filing the Board's decisional document will also guarantee the historical accuracy of the applicant's military record regarding the date of birth under which he served.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            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.

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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. This regulation prescribes the separation documents that will be furnished each individual who is separated from the Army including Active-Duty Training personnel and establishes standardized procedures for the preparation and distribution of these documents. All available records would be used as a basis for the preparation of the DD Form 214, including DA Form 20, DA Form 66, and orders.

a. Item 9 (Date of Birth): self-explanatory, meaning enter the Date of Birth in "00" days, "XXX" months, and "00" years.

//NOTHING FOLLOWS//