

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 19 December 2023

DOCKET NUMBER: AR20230006028

APPLICANT REQUESTS: in effect, correction of his two DD Forms 214 (Certificate of Release or Discharge from Active Duty) by changing the month and year of his birth from XXX 195X to XXX 196X.

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

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

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 states, in effect, the Army issued him two DD Forms 214; his first separation occurred, on 7 December 1979, and the second, on 8 April 1985. He has applied for Department of Veterans Affairs (VA) benefits, but VA has the wrong date of birth on file. In support of his request, the applicant supplies a copy of his birth certificate.

3. A review of the applicant's service record reveals the following:

a. On 27 December 1976, the applicant enlisted into the Regular Army; apart from a DD Form 214, the applicant's service record is void of any other documents from this first period of service.

(1) The applicant's DD Form 214 shows that, on 7 December 1979, the Army honorably released him from active duty due to an early release policy; orders transferred him to the U.S. Army Reserve (USAR) to complete his remaining military service obligation. The form additionally indicates he completed 2 years, 11 months,

and 11 days of net active duty service; the month and year of his birth are listed as XXX 195X.

(2) (Based on the date of birth reflected on his DD Form 214, the applicant was 17 years and 3 months old upon his entrance on active duty; using the applicant's submitted birth certificate, he was under 17 years of age).

b. On 9 April 1981, after serving 1 year, 4 months, and 2 days in the USAR, the applicant reenlisted into the Regular Army for 4 years; the month and year of birth on his DD 4 Form (Enlistment/Reenlistment Document Armed Forces of the United States) are XXX 195X. On 1 March 1985, the applicant enlisted into the USAR for 3 years; the DD Form 4 associated with this enlistment shows his month and year of birth as XXX 195X.

c. On 8 April 1985, the Army honorably discharged the applicant from the Regular Army; his DD Form 214 reflects that he completed 4 years of net active duty service and his birth month and year are XXX 195X. On 28 February 1988, Headquarters, Sixth U.S. Army Orders discharged him from the USAR.

d. All documents in the applicant's available service record that show his date of birth identify the month and year as XXX 195X.

4. The ABCMR does not grant requests solely to make an applicant eligible for Veterans' benefits; however, in reaching its determination, the Board can consider the applicant's petition, his evidence and assertions, and his service record in accordance with the published equity and injustice guidance.

5. Army Regulation (AR) 635-5 (Separation Documents), in effect at the time, stated the purpose of separation documents was to provide the individual with documentary evidence of his/her military service. DD Form 214 preparers were to use all available records, to include enlistment documents and the Soldier's DA Form 2-1 (Personnel Qualification Record – Part II), as sources for the entries in the DD Form 214.

6. The Board 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.

#### 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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

the Board found 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.



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, 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 635-5, in effect at the time, stated the purpose of separation documents was to provide the individual with documentary evidence of his/her military service. DD Form 214 preparers were to use all available records, to include enlistment documents and the Soldier's DA Form 2-1, as sources for the entries in the DD Form 214.

//NOTHING FOLLOWS//