

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 January 2024

DOCKET NUMBER: AR20230006248

APPLICANT REQUESTS: a change to item 1 (Last Name) of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show his last name as Xxrrestxx (Last Name A) instead of Xxstxx (Last Name B).

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

- DD Form 149 (Application for Correction of Military Record), 14 May 1963
- Updated Document Certificate, 1 August 1963
- State Driver's License, May 2021
- Veterans Administration Personal Information Report, 23 February 2023

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, Last Name A was his last name. It was incorrectly listed as Last Name B. He is submitted paperwork so that his records can be appropriately updated, and a DD Form 215 could be issued.
3. The applicant provided copies of:
  - a. His application and statement outlined above.
  - b. A U.S. Railroad Employee Information Card dated 1 August 1963. This form shows name of employee as Last Name A; a Social Security Number (SSN) which shows an original SSN and an amended SSN, both of which are different than the SSN reflected on the DD Form 214; and a Date of Birth (DOB) other than the DOB shown on the DD Form 214.
  - c. A state driver's license showing Last Name A.

d. A VA My Health Veteran information datasheet, authenticated on 3 January 2023, and showing the Last Name A.

3. A review of the applicant's service records shows:

a. On 1 August 1961, he enlisted in the Regular Army for 3 years. He authenticated this form with his signature as Last Name B. In item 38, he understood that if he secured his enlistment by means of any false statement, willful representation, or concealment as to his qualification for enlistment, he would be liable to trial by court-martial or discharge for fraudulent enlistment.

b. In connection with this enlistment, he further authenticated the following forms which his signature Last Name B:

(1) An SAR Form 16 (Acknowledgement of Service Obligation), on 1 August 1961, noting he voluntarily enlisted for 3 years in the RA and an Army Reserve Commitment of 6 years;

(2) an SAR Form 26 (Understanding of Enlistment), on 1 August 1961, with an understanding he would undergo training in Army Career Group-12 (Combat Engineering); and

(3) a DA Form 41 (Record of Emergency Data), 30 April 1964.

c. All his active duty service records show his Last Name B, including but not limited to:

- Special Orders Number 178, issued by 101st Airborne Division, Fort Campbell, 29 July 1964
- DA Form 664 (Serviceman's Statement Concerning Application for Compensation from the Veterans Administration), 30 July 1964
- Third Army Area (3AA) Form 2 (Statement of Medical Condition), 30 July 1964
- DD Form 1407 (Dependent Medical Care), 30 July 1964
- DA Form 24 (Service Record), 1 August 1961 to 31 July 1964
- DA Form 20 (Enlisted Qualification Record)

d. On 31 July 1964, he was honorably released from active duty and transferred to control of the U.S. Army Reserve Control Group (Reinforcement). His DD Form 214 shows in item 1 his Last Name B and it shows in item 34 (Signature of Person Being Transferred or Discharged), he authenticated with Last Name B.

e. A DA Form 1140 (Army Reserve Qualifications Questionnaire), dated 8 June 1965, shows his Last Name B and it shows he authenticated this form with Last Name A.

4. By Regulation (Army Regulation 635-5), in effect on 12 June 1956, the preparation of DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), Appendix III provided in item 1, enter last name, first name, and spell out the full middle name or names, if any.

#### 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 show he used the contested last name during his service. There isn't at least one document in his available service record to corroborate the use of the requested last name 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 last name 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 the last name. Filing the Board's decisional document will also guarantee the historical accuracy of the applicant's military record regarding the last name 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.

■ [REDACTED]

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[REDACTED] [REDACTED]

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[REDACTED]

[REDACTED]

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 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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.

3. Army Regulation 635-5 (Personnel Separations – Administrative Separation Procedures and Forms), effective 12 June 1956, established uniform administrative procedures and separation forms to be used in connection with the relief from active duty or complete separation from the military service of commissioned officers, warrant officers and enlisted personnel. In item 1 (Name) – enter last name, first name, and spell out the full middle name or names, if any.

//NOTHING FOLLOWS//