

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 February 2024

DOCKET NUMBER: AR20230008919

APPLICANT REQUESTS: correction of his records to show his date of birth (DOB) as [REDACTED] instead of [REDACTED]

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant Statement
- Birth Certificate, [REDACTED]
- DD Form 214, 1 February 1974
- Letter from the Department of the Army, Office of the Adjutant General and the Adjutant General Center, 10 June 1979
- Temporary Driver License, 11 September 2020
- United States of America (U.S.A.) Employment Authorization, 14 September 2021
- Driver License, [REDACTED]
- Social Security Card, undated
- USA Employment Authorization Card, 14 September 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, his military records show his DOB as [REDACTED] but the Department of Immigration says his correct DOB is [REDACTED]. He has been fighting with immigration for 20 years and he is trying to fix his military records so that he can apply for citizenship. He is an aging Vietnam veteran, and he has not been able to visit his family in his homeland for many years.
3. The applicant's military records are not available for review. However, there are sufficient documents to conduct a fair and impartial review of this case.

4. The applicant provides the following:

a. A copy of his birth certificate, which reflects his DOB as [REDACTED]

b. His DD Form 214, which shows he entered active duty on 16 December 1968. He was honorably discharged on 1 February 1974. This document shows in item 4 (DOB), [REDACTED]

c. A letter from the Department of the Army, Office of the Adjutant General and the Adjutant General Center, Washington, DC, dated 10 June 1979, which states his discharge was changed to honorable.

d. A temporary driver license dated [REDACTED] which reflects his DOB as [REDACTED]

e. A copy of his U.S.A. Employment Authorization dated [REDACTED] which shows his DOB as [REDACTED]

f. His limited term driver license dated [REDACTED] which shows his DOB as [REDACTED]

g. A copy of his social security card, undated.

h. A copy of his U.S.A. Employment Authorization dated [REDACTED] which shows his DOB as [REDACTED]

5. By regulation, the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon all information reflected in the military record reflecting the contested DOB and a lack of justification from the applicant related to what occurred causing the original error, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's military record.

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.

5/15/2024

X █

CHAIRPERSON
█

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 635-5 (Separation Documents), in effect at the time, prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established standardized policy for the preparation of the DD Form 214. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. The version in effect at the time stated that Item 4 (DOB) was entered using all numerals, e.g., 73 for year, 01 for January.

3. Army Regulation 635-8 (Separation and Processing Documents), currently in effect, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. For Block 5 (DOB), it states verify data accuracy by reviewing original enlistment contract and/or application for appointment.

//NOTHING FOLLOWS//