

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2024

DOCKET NUMBER: AR20230009651

APPLICANT REQUESTS: correction of his DD Form's 214 (Armed Forces of the United States Report of Transfer or Discharge) to show in item 9 (Date of Birth) [REDACTED] vice [REDACTED]

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Report of Separation from Active Duty), for the period ending 3 September 1977
- Certificate of Live Birth, Commonwealth of Virginia
- Social Security Card, Photocopy

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 provides his birth certificate, which reflects the requested date of birth as [REDACTED]
3. The applicant enlisted into the Army National Guard (ARNG) on 15 March 1973, his DD Form 4 (Enlistment Contract-Armed Forces of the United States), shows his date of birth as [REDACTED]
4. He was ordered to active duty for training (ADT) on 10 May 1973, and he was honorably discharge on 9 September 1973 and returned to the control of his ARNG unit. The DD Form 214 he was issued shows he completed 4 months of active service and his date of birth was listed as [REDACTED]
5. NGB Form 22 (National Guard Bureau Report of Separation and Record of Service) shows he was honorably discharged on 3 September 1975 from the ARNG. The NGB

Form 22 shows he completed 2 years, 5 months, and 19 days ARNG service and his date of birth listed was [REDACTED]

6. The applicant record is void of an enlistment contract; however, the available DD Form 214 (Report of Separation from Active Duty) shows he entered on active duty on 4 September 1975 and was honorably discharged on 3 September 1977. The DD Form 214 for this period shows he completed 1 year, 7 months, and 15 days of active service and his date of birth was listed as [REDACTED]

7. By regulation, for block 5 (Date of Birth) of the DD Form 214, verify data accuracy by reviewing original enlistment contract and/or application for appointment.

a. None of the documents in the applicant's military record reflect the DOB listed on his live birth certificate. The documents include but are not limited to:

- DD Form 4 (Enlistment Contract-Armed Forces of the United States) date of enlistment 15 March 1973
- DA Form 214, period ending 9 September 1973
- NGB Form (National Guard Bureau Report of Separation and Record of Service)
- DD Form 214, period ending 3 September 1977

#### 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 available evidence shows during his active service, the applicant used the contested date of birth (9th day of the month). The Board did not find evidence he used the requested date of birth (12th day of the month) during his military 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. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect conditions and circumstances that existed at the time the records were created, unless there is sufficient evidence that shows a material error or injustice.

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. Army Regulation 635-8 (Separation Processing and Documents), prescribes policy and procedural guidance relating to transition management; it explains separation document preparation, distribution, and correction. Paragraph 5-6 (Rules for Completing the DD Form 214 (Certificate of Release or Discharge from Active Duty) provides detailed instructions for data required in each block of the DD Form 214. It states for

block 5 (Date of Birth) of the DD Form 214, verify data accuracy by reviewing original enlistment contract and/or application for appointment. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. The DD Form 214 is a historical document that should reflect the record as it existed at the time the DD Form 214 was created.

//NOTHING FOLLOWS//