

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 April 2024

DOCKET NUMBER: AR20230010419

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show his name and date of birth (DOB) as shown on his Certificate of Live Birth (herein after referred to as the requested name and requested DOB).

- First name: [REDACTED] vice [REDACTED]
- DOB 1952 vice 1950

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- Certificate of Live Birth

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 he is requesting the correction so that his DD Form 214 reflects the information listed on his Certificate of Live Birth.
3. The applicant's records contain a DD Form 373 (Consent, Declaration of Parent or Legal Guardian) which shows his requested DOB.
4. All of the document's in the applicant's military record, to include the below listed documents, record the contested first name [REDACTED]
 - DD Form 4, DD Form 4 (Enlistment Contract – Armed Forces of the United States) 5
 - DA Form 20 (Enlisted Qualification Record)
 - DD Form 398 (Statement of Personal History)

- Special Orders Number 15, issued on 15 January 1972
- DD Form 214
- Letter Orders Number 01-1011287, 29 January 1976

5. A review of the applicant official military personnel file revealed he listed the contested name throughout his entire period of military service.

6. The applicant provided his Certificate of Live Birth showing the first name he claims is correct [REDACTED].

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was partially warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Date of Birth: Grant. The applicant's records contain a DD Form 373 (Consent, Declaration of Parent or Legal Guardian) which shows his requested DOB. Therefore, the Board found sufficient evidence to correct his DD Form 214 to show his correct DOB.

b. First Name: Deny. The evidence of record shows he used the contested first name [REDACTED] during his service. The Board found no evidence he used the requested name [REDACTED] (that he currently uses) 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. 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.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD Form 214 to show his year of birth as 1952 vice 1950.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to amending hist first name.

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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 635-5 (Separations 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 states the DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge.

//NOTHING FOLLOWS//