

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 May 2024

DOCKET NUMBER: AR20230011619

APPLICANT REQUESTS:

- correction of his DD Form 214 (Report of Separation from the Armed Forces of the United States) to show his date of birth as a different month, day, and year
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Power of Attorney
- Birth Certificate
- Social Security Card
- DD Form 214, for the period ending 11 April 1955

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's records held at the National Personnel Records Center (NPRC) are reported as being checked out and are not available for the Board to review.
3. The applicant provides his birth certificate that shows the contested date of birth and his social security.
4. The applicant was inducted into the Army of the United States on 27 April 1953.
5. His DD Form 214 shows he was honorably released from active duty on 11 April 1955. He completed 1 year, 11 months, and 15 days of active service. Item 10 (Date of Birth) shows the contested date of birth.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.
2. The Board found insufficient evidence to support a conclusion that the date of birth recorded on the applicant's DD Form 214 is an error. The Board noted the significant disparity between the date of birth shown on the birth certificate provided by the applicant and the date of birth recorded on the applicant's DD Form 214 and concluded that, in the absence of additional evidence from the service record, it must be presumed that the DD Form 214 reflects the information that was available at the time the form was completed. Based on a preponderance of the evidence, the Board determined the date of birth shown on the applicant's DD Form 214 should not be changed.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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| : | : | : | 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.

9/24/2024

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) prescribes the separation documents that must be prepared for Soldiers on retirement, discharge, release from active duty service, or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214. As in effect at the time the regulation did not specify what document was to be utilized to verify the entry of a dated of birth for inclusion at block 10 (Date of Birth).

3. Army Regulation (AR) 15-185 (ABCMR) 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, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//