

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]
[REDACTED]

BOARD DATE: 5 June 2024

DOCKET NUMBER: AR20230011769

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Report of Transfer or Discharge) and other documents in his military record to reflect his requested name, as shown in block 4 of his DD Form 149 (Application for Correction of Military Records), instead of the contested name reflected on his DD Form 214.

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

- DD Form 149 (Application for Correction of Military Record)
- Letter from the Department of Veterans Affairs (VA)

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 dropped the first name of "Harmut" back in the 1970's. His name is now "Fxxxx X. Hxxxxx." He requests a new DD Form 214 with his proper name. He was born in Germany and came to the United States at the age of 4. At age 18 he was drafted, he went to Vietnam, and got shot. He annotated his application to show his request categories include: An administrative correction, disability, promotion/rank, decoration/awards, and discharge/separation.
3. The applicant indicated on his application, in item 11 (Category) that his case was related to administrative correction, decorations and awards, disability, promotions/rank, and discharge/separation. However, he did not elaborate or specify further what if any corrections regarding these items he wanted corrected, or what was in error. Therefore, these items will not be addressed in this record of proceedings.

4. A review of the applicant's service record shows all the documents contained in his official military personnel file lists the contested name. These documents include, but are not limited to the following documents:

- DD Form 4 (Enlistment Contract)
- DD Form 1584 (National Agency Check Request)
- Standard Form 88 (Report of Medical Examination)
- DD Form 214
- DA Form 20 (Enlisted Qualification Record)
- Letter Orders 09-1301252, U.S. Army Reserve Components Personnel and Administration Center

5. The applicant provided a VA Letter stating he was provided unspecified documents. His submission was provided to the Board.

6. The available evidence revealed the applicant served throughout his entire period of active military service using the contested name listed on the DD Form 214.

7. The applicant did not provide nor do his records contain a court order changing his name.

8. For historical purposes, the Army has an interest in maintaining the integrity of its records. The data and information contained in those records should reflect the conditions and circumstances that existed at the time the records were created.

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 evidence of record shows he used the contested first name and middle initial during his service. The Board found no evidence he used the requested first name and middle initial 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:

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 635-5, in effect at the time, established the policy for preparing and distributing the DD Form 214. The regulation directs that the purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge.

//NOTHING FOLLOWS//