

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 April 2024

DOCKET NUMBER: AR20230011831

APPLICANT REQUESTS: correction of his deceased father's DD Forms 214s (Armed Forces of the United States Report of Transfer or Discharge/Report of Separation from Active Duty) as follows:

- Item 1 (Name (Last, First, Middle)) his middle name as Luis vice Louis
- Item 4 (Date of Birth (DOB)) his DOB as [REDACTED] vice [REDACTED]

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Certificate of Birth, City of New York
- Forer Service Member's (FSM's) Driver License, State of Florida
- FSM's Certificate of Birth Registration
- FSM's Certificate of Death, State of Florida

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 noticed the error to the FSM's DD Form's 214's while doing final arrangements for him.
3. The applicant provides his birth certificate, the FSM's birth certificate, driver's license, and death certificate, which reflects the requested date of birth as [REDACTED] and middle name as Luis.
4. The FSM was inducted in the Army of the United States on 15 August 1967; his DD Form 47 (Record of Induction), shows his date of birth as [REDACTED] and his middle name as Luis.

5. The FSM's DA Form 20 (Enlisted Qualification Record), which was created upon his entry on active duty listed his DOB as [REDACTED] and his middle name as Louis. Similarly, his Standard Form 88 (Report of Medical Examination) and Standard Form 89 (Report of Medical History) also show his DOB as [REDACTED] and his middle name as Louis.

6. The FSM was honorably released from active duty and transferred to the control of the Army Reserves on 6 August 1969. His DD Form 214 shows he completed 1 year, 11 months, and 13 days of active service. This DD Form 214 shows in:

- Item 1, his middle name as Louis
- Item 3 his DOB as [REDACTED]

7. The FSM enlisted in the Regular Army on 15 November 1974, his DD Form 4 (Enlistment Contract-Armed Forces of the United States) shows his middle name as Louis and his DOB as [REDACTED]

8. The FSM's DA Form 2-1 (Enlisted Qualification Record – Part II), which was created upon his reentry on active duty listed his middle name as Louis.

9. The FSM was honorably released from active duty on 18 February 1975. His DD Form 214 (Report of Separation from Active Duty) for this period shows in:

- Item 1, his middle name as Louis
- Item 3 his DOB as [REDACTED]

10. By regulation (AR 635-5):

- Block 1 (Name), compare original enlistment contract or appointment order, and review official record for possible name changes. If a name change has occurred list other names of record in block 18 (Remarks)
- Block 5 (Date of Birth) of the DD Form 214, verify data accuracy by reviewing original enlistment contract and/or application for appointment.

BOARD DISCUSSION:

1. 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 the SM used the contested date of birth (DOB) and middle name during his service. The Board found no evidence he used the requested DOB or middle name 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.

2. The applicant is advised that a copy of this decisional document, along with this application and the supporting evidence provided, will be filed in the SM's official military records. This should serve to clarify any questions or confusion regarding the difference in his DOB or middle name recorded in his military records and to satisfy the desire to have his requested DOB and middle name documented in his military records.

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 (AR) 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 1 (Name) and 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//