

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 June 2024

DOCKET NUMBER: AR20230012679

APPLICANT REQUESTS: correction of his DD form 214 (Certificate of Release or Discharge from Active Duty) to show his date of birth as [REDACTED] vice [REDACTED].

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

- DD Form 149 (Application for Correction of Military Record)
- Birth Certificate, Department of Health [REDACTED]

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 wanted to join the Army before he was of age and has regretted it since it has caused problems with his Veterans Administration (VA) benefits. He needs his date of birth corrected for continuity between the Social Security Administration and Veterans Administration.
3. The applicant provided a copy of his birth certificate showing the requested date of birth.
4. A review of the applicant's service records show:
 - a. On 17 December 1976, he enlisted in the U.S. Army Reserve (USAR) Delayed Entry Program (DEP) for a period of 6 years at age 18 years and 23 days. This date is his legal age and is based on data from his birth certificate. His DD Form 4 (Enlistment or Reenlistment Agreement) shows the contested date of birth.
 - b. On 18 January 1977, he was discharged from the USAR DEP and enlisted in the Regular Army.

c. His DD Form 1966 (Application for Enlistment – Armed Forces of the United States) shows in:

- item 11 (Date of Birth) – the contested date of birth
- item 13 (Highest Grade Completed) – grade 10

d. On 10 July 1980, he was honorably relieved from active duty. His DD Form 214 shows in block 5 (Date of Birth) 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 that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The evidence presented does not demonstrate the existence of a probable error or injustice. The applicant used the contested date of birth during his entire period of service. The Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. Based on the service record and a preponderance of the evidence, the Board denied relief.

2. 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. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

3. The applicant is advised that a copy of this decisional document, along with his application and the supporting evidence he provided, will be filed in his official military records. This should serve to clarify any questions or confusion regarding the difference in the date of birth recorded in his military records and to satisfy his desire to have his date of birth documented in his military records.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

7/1/2024

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), in effect at the time (1 October 1979), prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. The DD Form 214 is of vital importance to the separating Soldier and must be properly prepared according to prescribed guidance; ensure all information on the DD Form 214 and other separation documents is accurate.

a. A DD Form 214 would be prepared for all personnel at the time of their retirement, discharge, or release from the Active Army.

b. The instructions for item 5 (Date of Birth), enter date using six-digit number in this item; year, month, and day written in that sequence without spaces or slashes, e.g., 420106 for 6 Jan 42.

3. Army Regulation 601-210 (), Change 3, in effect on 1 December 1975, prescribed eligibility criteria governing the enlistment from civilian life of persons with or without prior service into the Regular Army.

a. Table 2-1 (Basic Eligibility Criteria for Enlistment) Rule A--Age requirements. Table 2-1 established the age requirements for enlistment. If the applicant is without prior service, men must be not less than 17 years old and not have reached their 35th birthday.

b. To enlist applicants without prior active military service for inactive duty I the U.S. Army Reserve with a delay of up to 270 days for high school graduates or applicants enrolled in the senior year of high school and 180 days for other qualified persons. A training quota must be obtained for each applicant.

//NOTHING FOLLOWS//