

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 August 2024

DOCKET NUMBER: AR20230013550

APPLICANT REQUESTS: correction of block 9 (Date of Birth (DOB)) of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) ending on 27 June 1969 to show his DOB as shown on his birth certificate issued on 7 November 2007.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 214
- DD Form 215 (Correction to DD Form 214), 8 May 1999
- State Certification of Vital Record issued 7 November 2007
- DD Form 1343 (Notification of Change in Service Member's Official Records), 13 January 2009
- Department of Veterans Affairs Form 21-4238 (Statement in Support of Claim), 19 October 2023

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 the birthdate shown on his DD Form 214 is incorrect.
3. He was inducted into the Army of the United States on 14 February 1967. His DD Form 47 (Record of Induction), 13 February 1967, shows his DOB as XX March 1947 (indicating he was 19 years, 11 months, and 2 days of age at the time of induction).
4. His DD Form 398 (Statement of Personal History), 10 December 1968, shows he recorded his DOB as XX March (no birth year).

5. On 27 June 1969, he was released from active duty and transferred to the U.S. Army Reserve Control Group (Annual Training). Block 9 of his DD Form 214 shows his DOB as XX March 1947. He completed 2 years of net active service during this period.
6. He was issued a DD Form 215 on 8 May 1999, adding award of the Army Commendation Medal and Combat Infantryman Badge to his DD Form 214.
7. His State Certification of Vital Record issued on 7 November 2007 shows his DOB as XX June 1949 (indicating he was 17 years, 8 months, 3 days of age at the time of induction and ineligible by law).
8. On 30 June 2008, he applied to the ABCMR for correction of block 9 of his DD Form 214 to show his DOB as XX June 1950. He provided his State Certification of Birth filed on 15 August 1956, showing his DOB as XX June 1950 (indicating he was 16 years, 8 months, and 3 days of age at the time of induction and ineligible by law).
9. The DD Form 1343, 13 January 2009, shows the Army Review Boards Agency Support Division, St. Louis, MO, administratively corrected his record to show his DOB as XX June 1950.
10. On 13 January 2009, the Army Review Boards Agency Support Division, St. Louis, MO, issued him a DD Form 215, correcting block 9 of his DD Form 214 to show his DOB as XX June 1950 as well as adding award of the Army Commendation Medal and Combat Infantryman Badge. The correction states: "Void Previously Issued DD Form 215 dated 8 May 1999."
11. The Department of Veterans Affairs Form 21-4238, 19 October 2023, shows he submitted a copy of his birth certificate to the Department of Veterans Affairs and it was received on 19 October 2023. It is unclear which version of his birth certificate he provided.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was not warranted. The applicant's contentions, his military records, and regulatory guidance were carefully considered. The evidence of record shows he was inducted, used, and served under the contested DOB (M__ 1947) during his service. The Board found no evidence he served under or used the requested DOB (J__ 1949) during his service. Additionally, the Board noted some inconsistencies with the different birth certificates he provides. 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:

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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.

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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 15-185 (Army Board for Correction of Military Records) prescribes policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. Board members will review all applications that are properly before them to determine the existence of an error or injustice and direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists in the record. The ABCMR will decide cases on the evidence of record; it is not an investigative body. 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.

3. Title 50, U.S. Code, section 3802, provides that male citizens of the United States and other male persons residing in the United States who are between the ages of 18 and 26, except those exempted by sections 3 and 6(a) of the Military Selective Service Act, must present themselves for registration at such time or times and place or places, and in such manner as determined by the President.

4. Title 10, U.S. Code, section 505(a), provides that the Secretary concerned may accept original enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, Regular Space Force, or Regular Coast Guard, as the case may be, of qualified, effective, and able-bodied persons who are not less than 17 years of age or more than 42 years of age. However, no person under 18 years of age may be originally enlisted without the written consent of his parent or guardian if he/she has a parent or guardian entitled to his/her custody and control.

5. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, prescribes the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or the custody and control of the Army. It establishes standardized policy for preparation of the DD Form 214. Paragraph 8-4 states do not issue a DD Form 215 when two DD Forms 215 have already been issued for the same DD Form 214. Administratively issue a new DD Form 214.

//NOTHING FOLLOWS//