

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 July 2023

DOCKET NUMBER: AR20230014633

APPLICANT REQUESTS: Correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect his date of birth (DOB), specifically his year of birth, as 1961 in lieu of 1962. Additionally, he requests an opportunity to appear before the Board by video or telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- Certificate of Birth
- Letter from the Social Security Administration
- Two DD Form 214
- Patient Inquiry
- Social Security Card

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 suffers from post-traumatic stress disorder (PTSD), "eye blindness," and kidney disease due to being an NBC [nuclear, biological, and chemical] instructor for 20 years. He also states that he has suffered three strokes and memory loss. He is making this request for his disability claim.
3. The applicant provided:
 - Certificate of Birth showing a middle name as "[REDACTED]" and a year of birth as 1961
 - Letter from the Social Security Administration showing he was entitled to receive monthly retirement benefits beginning February 2023
 - Two DD Forms 214, issued on 13 September 1991 and 4 June 2005, both showing the contested year of birth

- Patient Inquiry showing service connection/rated disabilities: “SC 90 percent (%)” for Allergic or Vasomotor Rhinitis rated 10%; Sinusitis, Pansinusitis, Chronic rated 50%; PTSD rated 70%; Impaired Hearing rated 40%; and Tinnitus rated 10%

4. The applicant’s enlisted in the Army National Guard on 8 January 1985 (with prior service). His DD Form 4 (Enlistment/Reenlistment Document) shows his date of birth as [REDACTED]

5. His record contains a DD Form 1966/1 (Application for Enlistment- Armed Forces of the United States), dated 8 January 1985, also his enlistment in the Army National Guard. This document reflects the contested DOB (1962).

6. He entered active duty on 26 November 1990, and he was honorably released from active duty on 13 September 1991. Block 5 (Date of Birth) of his DD Form 214 for this period of service reflects the contested year of birth (1962).

7. His record contain a second DD Form 214 that shows he entered active duty on 13 September 1991. He was released from active duty on 4 June 2005, under the provisions of National Guard Regulation 600-5, chapter 6, due to misconduct with service characterized as honorable. Block 5 (Date of Birth) of his DD Form 214 for this period of service also reflects the contested year of birth (1962).

8. On 10 January 2005, he was issued a Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter).

9. He was discharged from the Army National Guard ARNG on 7 January 2006. His NGB Form 22 (Report of Separation and Record of Service) also reflects the contested year of birth (1962).

10. On 22 August 2022, the U.S. Army Human Resources Command published Orders C08-296XXX placing him on the Retired List in his retired grade of sergeant first class on [REDACTED]

11. All documents in his service record reflects his year of birth as 1962 and include:

- Multiple Applications for Uniformed Services Identification Card – DEERS Enrollment
- Birth Certificates of Children (with Applicant’s DOB)

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.
2. 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 date of birth (DOB) (year of birth) during his service. Although the year of birth is off by one digit, which could imply an administrative error; however, the Board found no evidence he used the requested DOB (year of birth) during his service or attempted to correct his year of birth 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.
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 his DOB recorded in his military records and to satisfy his desire to have his requested DOB 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 15-185 (Army Board for Correction of Military Records), paragraph 2-11, states applicants do not have a right to a formal hearing/video/telephone hearing before the ABCMR. The Director of the ABCMR may grant a formal hearing [video or telephone hearing] whenever justice requires.
3. Army Regulation 635-5 (Separation Documents), in effect at the time, prescribed the separation documents that must be prepared for Soldiers upon retirement, discharge, or release from active duty service or control of the Active Army. It established standardized policy for preparing and distributing the DD Form 214. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. The general instructions stated all available records would be used as a basis for preparation of the DD Form 214. The specific instructions for the date of birth stated to enter the date of birth from the service records.

//NOTHING FOLLOWS//