

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 November 2024

DOCKET NUMBER: AR20240002495

APPLICANT REQUESTS: correction to his DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) to show in item 9 (Date of Birth (DOB)) his DOB as shown on his Certificate of Live Birth. Additionally, he requests a personal appearance before the Board (via video/telephone).

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge)
- Certificate of Live Birth

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 needs financial help from when he served in Vietnam.
3. The applicant was inducted into the Regular Army on 27 June 1962. Item 5 (DOB) of his DD Form 47 (Record of Induction) shows his DOB as 10 December 19XX.
4. The applicant was honorably discharged on 21 April 1964. Item 6 (DOB) of his DD Form 214 shows his DOB as 10 December 19XX. By signature, he endorsed his DD Form 214.
5. The applicant reenlisted in the Regular Army on 22 April 1964. Item 15 (DOB) of his DD Form 4 (Enlistment Record – Armed Forces of the U.S.) shows his DOB as 10 December 19XX. By signature, he endorsed his DD Form 4.
6. The applicant served in the Republic of Vietnam from 18 September 1967 to 12 September 1968.

7. The applicant was honorably discharged on 21 April 1970. Item 9 (DOB) of his DD Form 214 shows his DOB as 10 December 19XX. By signature, he endorsed his DD Form 214.

8. The applicant provides a true and correct copy of his original birth certificate showing his DOB as 27 July 19XX.

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 available evidence shows the applicant disclosed and used the contested DOB (D\_\_ 1939) during his military service. He enlisted and reenlisted using this DOB. The Board found no evidence he served under or used the requested DOB (J\_\_ 1941) 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. Although the applicant provides a certificate of live birth reflective of his desired date of birth, 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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.

a. Paragraph 2-9 states 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.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 635-5 (Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. The version in effect at the time established standardized policy for preparation of the DD Form 214. 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. It states 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. It is important that information entered on the form be complete and accurate, reflective of the conditions as they existed at the time of separation. For item 9, self-explanatory; enter the DOB.

//NOTHING FOLLOWS//