

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 October 2024

DOCKET NUMBER: AR20240002802

APPLICANT REQUESTS: correction of her father's, (the Former Service Member (SM)) DD Form 214 (Report of Separation from the Armed Forces of the United States) to reflect his correct date and place of birth.

- [REDACTED] vice [REDACTED]
- Livingston, TN vice Toledo, OH

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 for service ending 4 December 1953
- State of Tennessee (TN) Office of Vital Records Delayed Certificate of Birth
- Power of Attorney
- Community Physician Network letter

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 she requests the correction of her father's DD Form 214 to reflect his correct date and location of birth. Her father is in advanced dementia and she was granted power of attorney with general authority to act on behalf of H-D- her father. The SM provided the date of birth of [REDACTED] in order to enlist in the Army as a minor child because his parents were both deceased. His correct date of birth is [REDACTED] and he was born in Livingston, TN (vice Toledo, OH). This correction needs to be made in order for the applicant to certify the FSM's Department of Veterans Affairs benefits eligibility as his identification card does not match his DD Form 214.

3. The SM's records could not be located under the social security number which was provided by the applicant. However, the applicant provided his DD Form 214 which shows:

a. On 18 December 1950, he enlisted in the Regular Army. He was honorably discharged from active duty on 4 December 1953. DD form 214 shows the FSM completed 2-years, 11-months and 15-days of active service. It also shows in:

- Item 10 (Date of Birth): [REDACTED]
- Item 11 (Place of Birth): Toledo, OH

4. The applicant provides:

a. State of TN Office of Vital Records Certification of Vital Records which was issued on 1 May 2006 which has a Delayed Certificate of Birth affixed that shows H-D- was born on [REDACTED] in Livingston, Clay County, TN, which was signed by the SM as the registrant on 4 February 1974. His birth was supported by the evidence of the Bureau of Census from April 1940 and the affidavits dated 5 June 1974 of a relative and non-relative. The evidence was certified by the State Registrar on 11 June 1974.

b. The Durable Power of Attorney for the SM which appointed the applicant as his attorney in fact which gave her general authority to act in his behalf as of 9 August 2010. The power of attorney did not become effective until a physician determined he was incompetent and stated in writing he was unable to manage his affairs.

c. Community Physician Network letter dated 2 March 2020 stated the SM with the date of birth of [REDACTED] does not possess the mental capacity due to his advanced dementia to handle his finances.

BOARD DISCUSSION:

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 SM's service records are not available for review. The available military documents, consisting only of a DD Form 214, reflect the SM's contested date and place of birth. The Board found no evidence that supports the use of the requested date and place of birth during military service. Although the applicant provides the SM's State Office of Vital Records Delayed Certificate of Birth and a Community Physician Network letter reflective of his current date and place of birth, the Board found no evidence, at least one document from his military records, that confirms he served under the submitted date and place of birth. 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:

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, USC, 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. Special Regulation 615-360-1 (Enlisted Personnel Separation of Enlisted Personnel) in effect at the time, establishes the procedures to be followed in the separation of enlisted personnel from active military service and describe the proper method of execution and disposition of the various forms, records and reports required.

a. Paragraph 11 (Purpose and description), the purpose of the separation certificate is to provide the individual with documentary evidence of military service and to furnish a vital record for interested Government agencies which assist the individual in obtaining the rights and benefits which may accrue to him as the result of such service.

b. Paragraph 13e (10) Items 10 and 11, Self-explanatory.

3. Army Regulation 635-8 (Personnel Separations – Separation Processing and Documents), prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents.

a. Paragraph 5-4 (Source documents), when separation is ordered, the separation approval documents must be present for transition processing to occur. Source documents, as listed in subparagraph b below, must be present in a Soldier's record in order to complete the DD Form 214. If approval documentation is not present in a Soldier's record, action will be coordinated with the necessary activity (personnel service division, Assistant Chief of Staff for Personnel, adjutant general, or chain of command) for proper source documents. Use the following documents when preparing a DD Form 214:

- Servicemember's record brief (computer generated)
- Separation approval documents, if applicable
- Separation order
- Any other document authorized for filing in the AMHRR

b. Paragraph 5-6 (Rules for completing the DD Form 214), e. Block 5: Date of Birth. Verify data accuracy by reviewing original enlistment contract and/or application for appointment.

//NOTHING FOLLOWS//