

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 November 2024

DOCKET NUMBER: AR20240003679

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 26 May 1960, to show in item 6 (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)
- U.S. Passport
- State of Ohio Driver License
- State of Ohio Health Care Power of Attorney, 12 June 2023
- DD Form 214 for the period ending 26 May 1960

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's son states the Service Member (SM) lied about his birthday so that he could enlist in the Army. His DD Form 214 is incorrect; it currently reads a birthday of [REDACTED] and his actual birthdate is [REDACTED]. The correction should be made so that his DD Form 214 matches the rest of his legal documents. The applicant says the attached supporting documents are expired and the SM has been hospitalized since 28 June 2023 and is unable to renew them.

3. A review of the SM's official record shows the following:

a. He was inducted into the Army of the United States on 27 May 1958. His DD Form 47 (Record of Induction) indicates his date of birth as [REDACTED]

b. DA Form 24 (Service Record) and DA Form 20 (Enlisted Qualification Record), item 3 (Date of Birth) show his birthdate as [REDACTED]. They also show he served in Korea from 24 October 1958 to 30 November 1959.

c. DD Form 93 (Record of Emergency Data) dated 3 March 1960, shows the contested date of birth – [REDACTED]

d. On 26 May 1960, he was honorably released from active duty and was transferred to the U.S. Army Reserve (USAR) to complete his remaining service obligation. His DD Form 214 shows he completed 2 years of total active service. Item 6 (Date of Birth) shows [REDACTED]. It also shows he was awarded or authorized:

- Sharpshooter Marksmanship Qualification Badge with Rifle Bar
- Marksman Marksmanship Qualification Badge with Pistol Bar

4. The applicant provides:

a. An expired U.S. Passport and an expired Ohio State Driver License that show the SM's birth date as [REDACTED]

b. State of Ohio Health Care Power of Attorney dated 12 June 2023, that establishes the SM's son as his agent that allows him to make health care decisions on his behalf only whenever his attending physician has determined that he has lost the capacity to make informed health care decisions. The Health Care Power of Attorney has two witnesses acknowledging the established agent and indicates the SM's birth date as [REDACTED]

5. A review of the applicant's service record shows an award was omitted from his DD Form 214. The entry will be added to his DD Form 214 as an administrative correction and will not be considered by the Board.

#### 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 available evidence shows the applicant disclosed and used the contested DOB (June 1939) during his military service. The Board found no evidence he served under or used the requested DOB (July 1940) 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 some documents (U.S. Passport, Driver License) 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:

Except for the correction addressed in Administrative Note(s) below, 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.

ADMINISTRATIVE NOTE(S):

1. A review of the applicant's service record shows his DD Form 214 omitted an administrative entry, as a result, amend the DD Form 214 by adding in item 26 (Decorations, Medals, Badges, Commendations and Campaign Ribbons Awarded or Authorized) the Korean Defense Service Medal.

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- DA Form 20 (Enlisted Qualification Record)
- DA Form 24 (Service Record)
- Army Regulation 600-8-22 (Military Awards)
- DD Form 214, for the period ending on 26 May 1960

3. Please correct the applicant's DD Form 214 by adding the award/decoration shown in paragraph 1 above. Provide the applicant a copy of the correction, and as applicable the medals. Please ensure that the correction is recorded in the applicant's official military personnel record.

#### 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. Army Regulation (AR) 600-8-22 (Military Awards) states the Korea Defense Service Medal is authorized for award to members of the Armed Forces of the United States who have served on active duty in support of the defense of the Republic of Korea. The area of eligibility (1) encompasses all land area of the Republic of Korea and the contiguous water out to 12 nautical miles and (2) all air spaces above the land and water area. The period of eligibility is 28 July 1954 to a date to be determined by the Secretary of Defense. Service members must have been assigned, attached, or mobilized to units operating in the area of eligibility for 30 consecutive or for 60 nonconsecutive days or meet several criteria including: (1) be engaged in combat during an armed engagement, regardless of the time in the area of eligibility or (2) be wounded or injured in the line of duty and required medical evacuation from the area of eligibility. Due to the extensive time period for KDSM eligibility, the nonconsecutive service period for eligibility remains cumulative throughout the entire period.

3. AR 635-8 (Separation Processing and Documents), prescribes policy and procedural guidance relating to transition management; it explains separation document preparation, distribution, and correction. Paragraph 5-6 (Rules for Completing the DD Form 214 (Certificate of Release or Discharge from Active Duty) provides detailed instructions for data required in each block of the DD Form 214. It states for block 5

(Date of Birth) of the DD Form 214, verify data accuracy by reviewing original enlistment contract and/or application for appointment.

//NOTHING FOLLOWS//