

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 December 2024

DOCKET NUMBER: AR20240004020

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 23 December 1970 to show his last name as shown on his birth certificate.

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)
- Certificate of Birth, [REDACTED]
- Notarized Affidavit of Applicant, 19 August 1994
- Department of Veterans Affairs (VA) Form 26-8320 (Certificate of Eligibility), 24 August 1994

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 his birth name is [REDACTED]. He wishes to have his military records corrected from [REDACTED] the name under which he was drafted, to his birth name, [REDACTED] was his stepfather's last name. It was the last name he used when registering with the Selective Service. The different last name creates confusion with the VA.
3. He was inducted into the Army of the United States on 6 February 1969. Item 1 (Last Name – First Name – Middle Name) of his DD Form 47 (Record of Induction) shows his last name as [REDACTED].
4. He was discharged from the Army of the United States on 8 October 1969 for immediate enlistment in the Regular Army. He completed 8 months and 3 days of active

service during this period. His military records do not contain his DD Form 214 for this period of service.

5. He enlisted in the Regular Army on 9 October 1969. Item 5 (Last Name – First Name – Middle Name) of his DD Form 4 (Enlistment Contract – Armed Forces of the United States) shows his last name as [REDACTED]

6. Item 1 (Name (Last, First, Middle Initial) and Service Number) of his DA Form 20 (Enlisted Qualification Record) shows his last name as [REDACTED]

7. He was discharged on 23 December 1970. He completed 2 months and 23 days of active service during this period. Item 1 (Last Name – First Name – Middle Name) of his DD Form 214 shows his last name as [REDACTED]

8. A thorough review of his military records revealed that all documents show his last name as [REDACTED]

9. His military records do not contain a DA Form 3716 (Personnel Financial Record).

10. He provided the following documents for consideration:

a. His birth certificate showing his last name as [REDACTED]

b. A notarized affidavit to the VA, 19 August 1994, requesting amendment of his VA records show his legal name as [REDACTED]. He stated he was given the name [REDACTED] at birth on [REDACTED]. His mother remarried and he used his stepfather's last name when he enrolled in the first grade. He registered with the Selective Service in 1967 and was drafted on 19 February 1969 under the last name [REDACTED]. Upon his discharge from the Army, he applied for a new social security number under his birth name (not in evidence). He was never adopted by his stepfather and [REDACTED] was never his legal last name.

c. His VA Form 26-8320, 24 August 1994, showing his name as [REDACTED] and his alias as [REDACTED] in item 1 (Name of Veteran).

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy and regulation. Upon review of the applicants petition and available military records, the Board determined there is sufficient evidence to grant full relief,

including the applicant's provided birth certificate and current legal name. Based on this, the Board granted relief to correct the applicant's last name as that reflected on his certificate of birth.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his last name to reflect that annotated on his certificate of birth.

3/25/2025

X

CHAIRPERSON

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 635-5 (Separation Documents), effective 23 January 1967 and in effect at the time, prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. 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.

a. The general instructions stated the following records would be used as a basis for preparation of the DD Form 214:

- DA Form 201 (Military Personnel Records Jacket)
- DA Form 2 (Personnel Qualification Record – Part I) and DA Form 2-1 (Personnel Qualification Record – Part II)
- separation orders
- DD Form 4 or DD Form 47
- DA Form 3716
- enlistment records and DD Forms 214 for prior-service personnel
- any other available records

b. The detailed instructions for item 1 stated to enter the last name, first name, and full middle name or names, if any.

//NOTHING FOLLOWS//