

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 August 2024

DOCKET NUMBER: AR20240005953

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to reflect his date of birth (DOB) as [REDACTED] vice [REDACTED]
[REDACTED]

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

- DD Form 149 (Application for Correction of Military Record)
- State [REDACTED] Certificate of Live Birth
- [REDACTED] Driver License
- [REDACTED] Driver License (for his attorney-in-fact)
- Statutory Durable Power of Attorney

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 that he suffered a stroke on 8 September 2023 and is currently in a rehabilitation facility that houses veterans. He was told that because his date of birth did not match his military records that he was not eligible for physical or occupational therapy. The facility that he is currently in will not accept his birth certificate or driver license.

3. The applicant provides:

a. A State [REDACTED] Certificate of Live Birth, issued on 2 August 1994, that shows in block 2a (Birth Date – Month, Day, Year) his birthdate as [REDACTED]

b. [REDACTED] Driver License, issued on 23 April 2019, shows his DOB as [REDACTED]

c. [REDACTED] Drive License for the applicant's attorney-in-fact together with a Durable Power of Attorney that appoints his friend as his attorney-in-fact to act on the applicant's behalf.

d. Letter from the individual who is appointed as the applicant's power of attorney, addressed to the White House, in which the author states she is writing this letter on behalf of the applicant, who served as a sergeant in Vietnam from 1966 to 1968 and received an honorable discharge from active duty. The reason for her letter is to seek help to have the applicant's date of birth corrected on his DD Form 214 form. His correct date of birth is 28 October. However, his DD214 shows 31 October. The author further states the incorrect DOB impacts the applicant's eligibility for medical benefits by the Department of Veterans Affairs.

4. Although not related to the applicant's specific date of birth issue, the applicant's records contain sufficient evidence to support additional awards not reflected on his DD Form 214 and will be listed in the administrative notes. The Board will consider the applicant's request for correction of his DD Form 214 to reflect his DOB as 28 October.

5. A review of the applicant's service record shows:

a. His DD Form 47 (Record of Induction) shows he was inducted into the Army of the United States on 1 February 1966. Block 5 (Date of Birth (Day, Month, Year)) of his DD Form 47 lists his DOB as [REDACTED]

b. His DA Form 20 (Enlisted Qualification Record) shows in:

- Block 6 (Date of Birth): [REDACTED]
- Block 31 (Foreign Service): 14 July 1966 – 10 July 1967; USARPAC (U.S. Army Pacific Command) – Vietnam
- Block 38 (Record of Assignments): Company B, 1st Battalion, 18th Infantry USARPAC - (17 July 1966 – 9 July 1967); he received "excellent" conduct and efficiency ratings.

c. He was honorably released from active duty on 31 January 1968. His DD Form 214 shows he completed 2 years of active service. Block 9 (Date of Birth) is listed as [REDACTED] His DD Form 214 also shows he was awarded or authorized: National Defense Service Medal, Expert Marksmanship Badge with Rifle Bar (M-14), Combat Infantryman Badge, Vietnam Service Medal with 2 bronze service stars, Republic of Vietnam Campaign Medal with Device (1960).

6. Army Regulation 635-5 (Separation Documents), in effect at the time, states 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. For Block 9 (Date of Birth), the instruction states to verify data accuracy by reviewing original enlistment contract.

7. The applicant's service record does not contain orders awarding him the Army Good Conduct Medal. It also does not contain evidence of any derogatory information that would have disqualified him from receiving this award.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Date of Birth: Deny. 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.

(1) A majority of the Board determined that the evidence of record shows he was inducted, used, and served under the contested DOB [REDACTED] during his service. The Board found no evidence he served under or used the requested DOB (28 October). 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 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. The applicant may also use this Record of Proceedings to explain the differences.

(2) The member in the minority also agreed that the applicant has the burden of proving an error or injustice by a preponderance of the evidence. The applicant has provided proof of his correct DOB by a state live birth certificate

b. Army Good Conduct Medal: Grant. As a related award, although not specifically requested, the Board noted that the applicant served continuously on active duty from 1 February 1966 to 31 January 1968 completing 2 years of continuous active duty service. He received excellent conduct and efficiency ratings. His record does not reflect any lost time or any derogatory information that would have disqualified him from receiving his first award of the Army Good Conduct Medal, or a commander's

disqualifying memorandum for this award. The Board determined he met the criteria to be awarded the Army Good Conduct Medal (1st Award).

2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	█	GRANT FULL RELIEF
█	█	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the correction addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- awarding the applicant the Army Good Conduct Medal (1st Award) for service during the period 1 February 1966 through 31 January 1968
- adding award of the Army Good Conduct (1st Award) to his DD Form 214

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to changing his date of birth.

8/8/2024

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.

ADMINISTRATIVE NOTE(S): A review of the applicant's records show he is authorized additional awards not listed on his DD Form 214. As a result, amend his DD Form 214, for the period ending 1 February 1966 by adding the following awards:

- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal, First Class

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), in effect at the time, states 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. For Block 9 (DATE OF BIRTH), it states verify data accuracy by reviewing original enlistment contract.

3. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:

a. Department of the Army General Order (DAGO) 53, issued in 1970, awarded servicemembers assigned to 1st Battalion, 18th Infantry Regiment the Republic of Vietnam Civil Actions Honor Medal, First Class, for service from 12 July 1965 to 7 April 1970.

b. DAGO 21, issued in 1969, awarded servicemembers assigned to 1st Battalion, 18th Infantry Regiment the Republic of Vietnam Gallantry Cross with Palm Unit Citation, for service from 12 July 1965 to 16 October 1968.

3. Army Regulation 672-5-1 (Awards), in effect at the time, stated the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not

disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

//NOTHING FOLLOWS//