

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 March 2025

DOCKET NUMBER: AR20240007737

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show a different date of birth (DOB)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- State of California- Driver License
- Mexico - Birth Certificate

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 wishes to have the DOB corrected on his DD Form 214 to reflect [REDACTED] not [REDACTED] the contested DOB. He would like a DD Form 215 (Correction to DD Form 214) issued with the correction.
3. The applicant provides the below listed documents as evidence of the correct date of birth, [REDACTED]
 - State of California- Driver License
 - Mexico - Birth Certificate
4. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army (RA) on 2 June 1970. His DD Form 47 (Record of Induction – Armed Forces of the United States) shows in Block 5 (Date of Birth) the contested date of birth.

b. His DD Form 398 (Statement of Personal History) shows the applicant previously listed his date of birth as [REDACTED]

c. His DA Form 20 (Enlisted Qualification Record) shows in Block 6 (Date of Birth) the contested date of birth.

d. He was honorably released from active duty on 16 March 1972. His DD Form 214 shows he completed 1 year, 7 months, and 9 days of active service. It also shows in Block 9 (Date of Birth) [REDACTED] the contested date of birth.

5. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

6. By regulation (AR 635-5), the purpose of the DD Form 214 is to provide the individual with documentary evidence of active military service and to furnish a vital record for interested government agencies. The information entered thereon reflects the conditions as they existed at the time of separation. All available records will be used as a basis for the preparation of DD Form 214a (Worksheet), including DA Form 24 (Service Record), DA Form 20 (Enlisted Qualification Record), DA Form 66 (Officer Qualification Record), and court-martial orders, when appropriate. Item 16 (Date of Birth), self-explanatory by regulation.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's request and available military records, the Board noted the applicant's State of California driver's license and a birth certificate from Mexico as evidence of the correct date of birth. However, the Board found the applicant consistently used the contested date of birth, [REDACTED] as the date he provided and verified at the time of enlistment and throughout his period of active service.

2. In accordance with Army Regulation 635-5, the DD Form 214 is intended to document the conditions as they existed at the time of separation. The date of birth entered on the DD Form 214 is derived from official personnel records maintained during the period of service and is not subject to retrospective correction based on post-service documentation. The Board determined that the DD Form 214 accurately reflects

the information provided and verified by the applicant during his military service. Therefore, correction of the applicant's date of birth is denied.

3. 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 the date of birth recorded in his military records and to satisfy his desire to have his legal date of birth documented in his military records.

4. 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
XXX	XXX	XXX	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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

X //SIGNED//

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 service records show he is authorized an award and additional campaign credits not annotated on his DD Form 214. As a result, amend his DD Form 214 to show the following awards:

- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- four bronze service stars to his already awarded Vietnam Service Medal

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. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. 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.

By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

3. Army Regulation 635-5 (Separation Documents) states the DD Form 214 will be issued at the time of separation to each officer and enlisted person discharged, retired, or relieved from active duty, regardless of the character of service rendered, by the commander of the transfer facility unless otherwise directed by the Department of the Army. The purpose of the DD Form 214 is to provide the individual with documentary evidence of active military service and to furnish a vital record for interested government agencies. The information entered thereon reflects the conditions as they existed at the time of separation. All available records will be used as a basis for the preparation of DD Form 214a (Worksheet), including DA Form 24 (Service Record), DA Form 20 (Enlisted Qualification Record), DA Form 66 (Officer Qualification Record), and court-martial orders, when appropriate. Item 16 (Date of Birth), self-explanatory by regulation.

//NOTHING FOLLOWS//