

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 April 2025

DOCKET NUMBER: AR20240009234

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show enlistment date of 1960 vice 1964
- correction to race on DD Form 214 to show Native American vice Caucasian
- correction of records to show time in Vietnam
- correction of record to show awards received from service
- a personal appearance before the Board via video/telephone

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

DD Form 149 (Application for Correction of Military Record), 22 May 2024

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 is requesting his DD Form 214 to reflect he enlisted in 1960 at the age of 14 years old and he served until 1965, that he served in Vietnam where he was shot three times in the leg, his race to be updated to reflect Native American vice Caucasian, and he wants his records to show awards received.
3. A review of the applicant's DD Form 214 shows his race under 7a (Race) of NA (Native America), this portion of the applicant's request will not be addressed further in this Record of Proceedings.
4. A review of the applicant's service record shows the following:
 - a. The DD form 4 (Enlistment Record) shows on 19 October 1964, he enlisted in the Regular Army for a 3-year period.

b. His DA Form 24 (Service Record) shows service outside of the continental United States to Pearl Harbor, Hawaii with an arrival date of 11 January 1965.

c. He received four nonjudicial punishments (NJP), under the provisions of Article 15, of the Uniform Code of Military Justice (UCMJ):

(1) On 15 March 1965, while in Hawaii, for failure to maintain his rifle in a clean condition. His punishment imposed was 14 days restriction and 14 days extra duty.

(2) On 19 March 1965, while in Hawaii, for breaking restriction on or about 17 March 1965. His punishment imposed was correctional custody for 15 days.

(3) On 23 April 1965, while in Hawaii, for failing to obey a lawful order on or about 23 April 1965. His punishment imposed was 14 days extra duty, restriction for 14 days, and forfeiture of \$10.00.

(4) On 23 April 1965, while in Hawaii, for failing to maintain property in a clean condition on or about 23 April 1965. His punishment imposed was restriction for 14 days and extra duty for 14 days.

d. On 1 August 1963, his commanding officer initiated action to separate him for unsuitability under the provisions of Army Regulation (AR) 635-209 (Personnel Separations Discharge Unsuitability). The reason for the proposed action was that the applicant's inability to adapt to the military service.

e. On the same date, he acknowledged receipt of his commander's intent to initiate separation action against him for unfitness. He consulted with counsel who advised him of the basis for the contemplated action to separate him under AR 635-209, and its effect; of the rights available to him; and the effect of any action taken by him in waiving his rights. He requested a hearing by a board of officers and elected to not submit a statement in his own behalf.

f. On 9 June 1965, the separation authority approved his discharge under the provision of under the provisions of AR 635-209, directed that he be issued an DD Form 257A (General Discharge Certificate).

g. He was discharged accordingly on 10 September 1965, under the provisions of AR 635-209, in the grade of E-2. His DD Form 214 shows he was discharged with an under honorable conditions (General) characterization of service. He completed 10 months and 22 days of active service with a total of 8 months and 3 days with foreign/sea service to United States Army Pacific (USARPAC). He was awarded the Expert Marksmanship Qualification Badge with Rifle Bar (M-14).

5. The applicant petitioned the Army Discharge Review Board (ADRB) for change in his type of nature of his discharge. After careful review of his application, military records, and all other available evidence, the ADRB determined that he was properly and equitably discharged and denied his request on 8 September 1981.

6. For historical purposes, the Army has an interest in maintaining the integrity of its records. The data and information contained in those records should reflect the conditions and circumstances that existed at the time the records were created. In the absence of a showing of material error or injustice, this Board is reluctant to recommend these records be changed.

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. Based upon the available documentation, the Board made the following findings related to the requested relief:

- Show enlistment date of 1960 vice 1964: DENY, based upon the information reflected on the applicant's enlistment contract, DA Form 20 and throughout the military record showing the start of military service as 19 October 1964
- Show Native American vice Caucasian: DENY, based upon the information reflected on the applicant's DA Form 20 and the DD Form 214 not showing race
- Show time in Vietnam: DENY, based upon a lack of documentation showing the applicant served in Vietnam during his military service
- Show awards received from service: DENY, based upon a lack of documentation showing the applicant was awarded any awards not reflected.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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:

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.

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.

3. Army Regulation 635-209 (Personnel Separations – Discharge– Unsuitability), in effect at the time, set forth the policy and prescribed procedures for eliminating enlisted personnel for unsuitability. Action would be taken to discharge an individual for unsuitability only when, in the commander's opinion, it was clearly established that the individual was unlikely to develop sufficiently to participate in further military training and/or become a satisfactory Soldier or the individual's psychiatric or physical condition was such as to not warrant discharge for disability. Unsuitability included: (a) inaptitude; (b) character and behavior disorders, disorders of intelligence and transient personality disorders due to acute or special stress; (c) apathy (lack of appropriate interest), defective attitudes, and inability to expend effort constructively; (d) enuresis, (e) chronic alcoholism; and (f) class III homosexuality (evidenced homosexual tendencies, desires, or interest, but was without overt homosexual acts). Evaluation by a medical officer was required and, when psychiatric indications were involved, the medical officer must have been a psychiatrist, if one was available. A general or an honorable discharge was considered appropriate.

//NOTHING FOLLOWS//