

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-03146

XXXXXXXXXXXX

**COUNSEL:** NONE

(AKA) XXXXXXXXXXXX

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

The name on his DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, be changed to reflect his current legal name.

### APPLICANT'S CONTENTIONS

He found that on his birth certificate, he was registered as AY. Additionally, his Social Security records and tribal certificate reflect AY.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an honorably discharged Air Force airman first class (E-3).

The applicant served in the Air Force from 26 Sep 69 to 19 Aug 70, under the name GAY.

On 12 May 47, according to Certificate of Birth, provided by the applicant, his full name is AY.

On 26 Sep 69, according to DD Form 4, *Enlistment Contract – Armed Forces of the United States*, the applicant enlisted in the Regular Air Force under the name GAY.

On 19 Aug 70, the applicant was furnished an honorable discharge, under the name GAY, and credited with 10 months and 24 days active service.

According to Social Security card, dated 9 Mar 15, provided by the applicant, his current name is AY.

On 11 Jul 16, according to Certificate of Navajo Indian Blood, provided by the applicant, his current name is AY.

For more information, see the excerpt of the applicant's record at Exhibit B.

### APPLICABLE AUTHORITY/GUIDANCE

Air Force policy does not authorize the correction of records of former airmen to show name changes occurring after discharge (AFI 36-2608, *Military Personnel Records System*, Table A7.3 [Name Changes]). In particular, if the name appearing on the DD Form 214 was correct at the time it was created, the AFI would not allow a correction, even to reflect a subsequent, legal name change. The past practice of the Board has been to follow the AFI in all cases except those where the applicant seeks to revert to either a maiden name or the name under which he or she entered service, or the Board finds a particular injustice that warrants an exception to policy, such as noted below in the SAF/MR memorandum.

## **APPLICABLE AUTHORITY/GUIDANCE**

SAF/MR memorandum, *Guidance to the Air Force Board for Correction of Military Records*, dated 9 Mar 15, states that while the Board generally has the authority to correct an applicant's records to reflect a legal change to the applicant's name, it should exercise discretion in doing so. The DD Form 214 is primarily created for the benefit of the veteran to establish entitlements to various government programs, or in seeking employment with organizations that grant veteran's preferences. A DD Form 214 may constitute an injustice when the veteran asserts that presenting a DD Form 214 that lists the old name effectively requires a needlessly intrusive explanation of personal history. This type of injustice may arise in situations such as when the name change is transgender-related or associated with a divorce.

A complete copy of the SAF/MR memorandum is at Exhibit C.

## **APPLICANT'S REVIEW OF APPLICABLE AUTHORITY/GUIDANCE**

The Board sent a copy of the SAF/MR memorandum to the applicant on 14 Oct 22 for comment (Exhibit D) but has received no response.

## **FINDINGS AND CONCLUSION**

1. The application was not timely filed, but it is in the interest of justice to excuse the delay.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After thoroughly reviewing all Exhibits, the Board concludes the applicant is the victim of an injustice. Pending update of DoDI 1336.01, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)*, to allow administrative correction of the DD Form 214 without action of the Board, and based on recommendations from the Office of the Secretary of Defense Separations Standardization Working Group, the Board has established a precedent of granting requests for name changes on the DD Form 214 based on error under the following conditions: (1) the DD Form 214 was erroneous when issued; (2) the applicant provides adequate proof (True Copy Raised Seal, Notarized, or official digital document with electronic signature). In the present case, the Board finds the applicant has met the criteria noted above. Therefore, the Board recommends the applicant's records be corrected as indicated below.

## **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that the DD Form 214, *Armed Forces of the United States Report of Transfer or Discharge*, issued in conjunction with the 19 Aug 70 discharge, be declared void; a new DD Form 214 be issued to reflect the current legal name in Block 1; and no entries be made on the reissued DD Form 214 indicating the name was changed or the DD Form 214 was administratively reissued.

## **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-03146 in Executive Session on 18 Nov 22:

, Panel Chair

, Panel Member  
, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 9 Oct 21.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: Memorandum, SAF/MR, dated 9 Mar 15.

Exhibit D: Notification of Memorandum, SAF/MRBC to Applicant, dated 14 Oct 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

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Board Operations Manager, AFBCMR