

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-00337

XXXXXXXXXX

COUNSEL: NONE

(AKA)XXXXXXXXXX

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

The name on his DD Form 214, *Certificate of Release or Discharge from Active Duty*, be changed to reflect his current legal name.

APPLICANT'S CONTENTIONS

The name on his DD Form 214 does not match his current legal name.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force airman first class (E-3).

The applicant served in the Air Force from 9 Aug 95 to 2 Aug 99 under the name JWD.

On 23 Mar 05, the applicant obtained a court order to change his name to JWW.

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 10 Aug 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 that the applicant is not the victim of an error or injustice. The applicant's name was not a reversion to a maiden name and was correct at the time of his discharge. The Board finds the applicant has not established that presenting his DD Form 214 with the previous legal name effectively requires a needlessly intrusive explanation of personal history. The Board also notes the applicant did not file the application within three years after the alleged error or injustice was discovered, as required by Title 10, United States Code, Section 1552, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. Moreover, the applicant has offered no plausible reason for the delay in filing the application. The Board finds the application untimely and concludes it would not be in the interest of justice to excuse the delay. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown that a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2022-00337 in Executive Session on 16 Feb 23:

, Panel Chair
, Panel Member
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 29 Nov 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 10 Aug 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.