

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01428

XXXXXXXXXX

COUNSEL: NONE

AKA XXXXXXXXXXXX

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her military records be corrected to reflect the following:

1. Her current legal name on her DD Form 214, *Certificate of Release or Discharge from Active Duty*.
2. Her current legal name on her DD Form 256 AF, *Honorable Discharge*.
3. Her current legal name on her AF Form 2274, *Air Force Achievement Medal*.
4. Remove her former spouse's information from DD Form 214, Block 19b, *Nearest Relative*.

APPLICANT'S CONTENTIONS

She is requesting a correction to her military records due to a name change. Upon entering the Air Force, her name was XXX. She then married and her name changed to XXX. She is now divorced and remarried and no longer carries that name. She is hoping that at least her DD Form 214 can be corrected with her current legal name as it has proved difficult to use the document with the name variances on her legal documents. She is hoping to use her Veterans Administration benefits to buy property and the name difference makes that challenging.

She is also requesting her nearest relative on her DD Form 214, to have her former spouse removed from the document. She also requests that her DD Form 256 be reprinted with her current legal name and the AF Form 2274 be corrected, as her name has always been misspelled on this document. She is very proud of these documents, but due to the fact that they carry her former spouse's name and the misspelling, she does not display or show them to anyone. She would love to display these in her home for her children to see as they grow older, and maybe one day, for her grandchildren to see them as well.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force senior airman (E-4).

The applicant served in the Air Force from 18 Dec 01 to 25 Jan 04 under the name XXX.

The applicant served in the Air Force from 26 Jan 04 to 17 Dec 05 under the name XXX.

On 22 Nov 05, according to the AF Form 2274, *Air Force Achievement Medal*, provided by the applicant, her first name was misspelled.

On 17 Dec 05, the applicant was furnished an honorable discharge and credited with 4 years active service.

On 12 Jul 16, pursuant to divorce and remarriage, the applicant changed her name to XXX [new last name has same initial].

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibits E and G.

APPLICABLE AUTHORITY/GUIDANCE

Consistent with recommendations of the Air Staff and the Office of the Secretary of Defense Separations Standardization Working Group, the Board has established a precedent of granting requests for post-service name changes under the following conditions: (1) the applicant's name was changed as part of a transgender transition or the applicant is seeking to revert to a maiden name or the name under which he or she entered service; and (2) the change is supported by a court order, a divorce decree, or birth certificate (True Copy Raised Seal, Notarized, or official digital document with electronic signature); (3) the change is made only to the DD Form 214; and (4) the Board has not already granted a name change for the applicant.

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 9 Jun 22 for comment (Exhibit D) but has received no response.

AIR FORCE EVALUATION

AFPC/DP2SSR recommends denying the applicant's request to correct her DD Form 214, Block 19b, *Nearest Relative*. The information indicated in Block 19b is for administrative purposes only and has no effect on the benefits and entitlements. It is on the form in the event the service needs to contact the service member prior to separation effective date since most service members are on terminal leave. Once separation or retirement has consummated, the service does not contact the service member or nearest relative. Veterans and/or retirees should provide address information or changes to their respective Veterans Administration or Defense Enrollment Eligibility Reporting System office after separation or retirement.

The complete advisory opinion is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 2 Nov 22 for comment (Exhibit F) but has received no response.

AIR FORCE EVALUATION

AFPC/DP3SP recommends denying the applicant's request for correction and name change on her awarded Air Force Achievement Medal.

After a thorough review of the applicant's official military personnel record and provided documentation, misspelling of her first name had been verified. As the divorce and subsequent name change occurred after award of the AFAM, and after the applicant's release from active duty, at the time the AFAM was awarded, the name on the decoration was accurate.

The AFAM was dated 22 Nov 05, and the applicant's release date was 17 Dec 05. The applicant remarried on 12 Jul 16.

The complete advisory opinion is at Exhibit G.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the SAF/MR memorandum to the applicant on 13 Jan 23 for comment (Exhibit H) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed.
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 Board concurs with the rationale and recommendations of AFPC/DP2SSR and AFPC/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The information on her DD Form 214, DD Form 256, and AF Form 2274 was correct at the time they were issued. Additionally, the Board finds the applicant has not established that presenting their 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 Air Force Instruction 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.

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 the Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-01428 in Executive Session on 22 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 19 Sep 19.
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 9 Jun 22.
Exhibit E: Advisory opinion, AFPC/DP2SSR, dated 15 Sep 22.
Exhibit F: Notification of advisory, SAF/MRBC to applicant, dated 2 Nov 22.
Exhibit G: Advisory opinion, AFPC/DP3SP, dated 13 Jan 23.
Exhibit H: Notification of advisory, SAF/MRBC to applicant, dated 13 Jan 23.

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

X

Board Operations Manager, AFBCMR