

## **RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-02013

XXXXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

(AKA) XXXXXXXXXXXXXXXX

**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 legally changed his name to align with his stepfather's last name.

The applicant's complete submission is at Exhibit A.

### **STATEMENT OF FACTS**

The applicant is a former Air Force sergeant (E-4)

The applicant served in the Air Force from 28 Sep 65 to 18 Jul 69, under the name XXX.

On 26 Apr 78, the applicant obtained a court order to change his name to XXX.

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.

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 28 Sep 23 for comment (Exhibit D), 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 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. Therefore, the Board recommends against correcting the applicant's records. 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). The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

## **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-2023-02013 in Executive Session on 30 May 24:

, 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 15 Jun 23.  
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 28 Sep 23.

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.

**X**

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Board Operations Manager, AFBCMR