

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 February 2024

DOCKET NUMBER: AR20230004518

APPLICANT REQUESTS: removal and deletion of all documents contained in her Army Military Human Resource Record (AMHRR) wherein her name or gender aren't C____ W____ or female, respectively.

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

- two DD Forms 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- U.S. Passport, 13 September 2018
- Georgia State University Official Transcript, 2 July 2020
- Standard Form 50 (Notification of Personnel Action), 26 February 2023
- My Employment Summary Personnel Action History Screenshot, undated

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 she has always been female; this is a reality that cannot be denied based on her anatomy and legal being. The ABCMR can certainly purge incorrect documents from the Interactive Personnel Electronic Records Management System. Her AMHRR is widely available to Army human resources personnel who have used this fictional information for reprisal against her. Intentional misgendering is a form of prohibited harassment and unjust. She strongly encourages promotion of dignity and civility. The wrong name and gender in her AMHRR is unhealthy discrimination.

3. The applicant's records show she enlisted in the Regular Army on 14 November 2008. Her DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) shows her name as K____ H____ W____. She identified as a male.

4. The applicant was discharged under honorable conditions (general) on 15 September 2009 by reason of unsatisfactory performance. Her DD Form 214

(Certificate of Release or Discharge from Active Duty) issued at the time of her separation shows her name as K____ H____ W____.

5. State of Georgia Superior Court of Dekalb County Final Order of Name Change, 7 August 2018, ordered and adjudged the applicant's name change from K____ H____ W____ to C____ W____.

6. The letter from her attending physician, 4 September 2018, states the applicant had appropriate clinical treatment for gender transition to the new female gender.

7. On 17 September 2018, the applicant requested correction of her DD Form 214 for the period ending 15 September 2009 to show her current legal name. She stated she is a transgender woman. She legally changed her name in 2018 from K____ H____ W____ to C____ W____ to align with her gender identity. The appearance of her former name on her DD Form 214 is an injustice due to the social stigma and discrimination that transgender people face because it discloses her transgender status every time she presents her DD Form 214.

8. On 2 December 2019 in Docket Number AR20180016058, the ABCMR determined that relief was warranted. Based upon the potential prejudices some transgender Soldiers may face when presenting a DD Form 214 with a different name than currently used, the Board found there were potential injustices that would provide sufficient reason to grant the requested relief. The Board recommended voiding her current DD Form 214 and issuing her a new DD Form 214 showing her name as shown on the court-ordered name change document.

9. On 1 April 2021, her DD Form 214 for the period ending 15 September 2009 was voided and she was issued a DD Form 214 showing her name as C____ W____.

10. On 12 March 2022, she petitioned the Army Discharge Review Board to upgrade her service characterization to honorable.

11. On 30 January 2023 in Docket Number AR20220004700, the Army Discharge Review Board determined by majority vote that her character of service was inequitable and upgraded her service characterization to honorable.

12. On 25 February 2023, her DD Form 214 for the period ending 15 September 2009 was again voided and she was issued a DD Form 214 showing her name as C____ W____ and her service characterization as honorable.

13. Apart from documents related to the applicant's requests for records corrections and her reissued DD Forms 214, all contemporaneous record documents in her AMHRR show her former name and gender when gender is recorded.

14. She provided the following documents showing her name as C____ W____ and/or gender as female:

- U.S. Passport, 13 September 2018
- Georgia State University Official Transcript, 2 July 2020
- Standard Form 50 (Notification of Personnel Action), 26 February 2023
- My Employment Summary Personnel Action History

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was not warranted. The applicant's contentions, her military records, and regulatory guidance were carefully considered.

a. The evidence shows the applicant enlisted in the RA on 14 November 2008 under the name K_ H_ W_ and identified as a male. Following the applicant's submission to this Board, together with a Final Order of Name Change that ordered and adjudged the applicant's name change from K_ H_ W_ to C_W_, and a letter from her attending physician, stating the applicant had appropriate clinical treatment for gender transition to the new female gender, the Board determined that relief was warranted and indicated that based upon the potential prejudices some transgender Soldiers may face when presenting a DD Form 214 with a different name than currently used, the Board found there were potential injustices that would provide sufficient reason to grant the requested relief. The Board recommended voiding her current DD Form 214 and issuing her a new DD Form 214 showing her name as shown on the court-ordered name change document.

b. There is no further correction or purge to the applicant's entire service records as requested by the applicant, stipulated by the Board. This is so for three reasons: First, the ABCMR limits corrective action to documents that can be individually reviewed after a Soldier's separation. The DD Form 214 is normally the document that is reviewed after separation. The Board already corrected her DD Form 214. Second, the Army has an interest in maintaining the integrity of its records for historical purposes. The data and information contained in those records should reflect the conditions and circumstances that existed at the time the records were created. At the time these records were created, there was no error or injustice in those records. Third, apart from documents related to the applicant's request for records corrections and her reissued DD Forms 214, all contemporaneous record documents in her AMHRR show her former name and gender when gender is recorded.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	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.

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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 (Army Board for Correction of Military Records) 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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
3. Army Regulation 25-22 (The Army Privacy and Civil Liberties Program) establishes and maintains a comprehensive Army Privacy and Civil Liberties Program that complies with applicable statutory, regulatory, and policy requirements governing the disclosure or dissemination of information, and any other valid access, use, and dissemination restrictions, and limits the creation, collection, use, processing, storage, maintenance, dissemination, and disclosure of personally identifiable information to that which is legally authorized, relevant, and reasonably deemed necessary to accomplish the Army's function. Disclosure of records pertaining to an individual from a system of records is prohibited in the absence of the individual's consent except as authorized by the Privacy Act of 1974 and the Freedom of Information Act.
4. Army Regulation 600-8-104 (Army Military Human Resource Records Management) prescribes policies governing the Army Military Human Resource Records Management Program. The AMHRR includes, but is not limited to, the Official Military Personnel File, finance related documents, and non-service related documents deemed necessary to store by the Army. Paragraph 3-6 provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or other authorized agency.

//NOTHING FOLLOWS//