

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 January 2024

DOCKET NUMBER: AR20230007216

APPLICANT REQUESTS: a correction to his DD Forms 214 (Certificate of Release or Discharge from Active Duty) to reflect his legal name change, "Le__ Th__ Lo__."

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- District Court of the State of Washington for Walla Walla County Order Changing Name
- Army Reserve Retired identification card
- Washington Driver License
- Washington State Department of Health Social Worker Independent Clinical License

FACTS:

1. The applicant did not file within the three year time frame provided in Title 10, United States Code (USC), section 1552 (b); however, the Army Board for Correction of Military Records 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, in effect, he legally changed his name on 30 April 2021 and would like his military records to match other legal documents. He mentions that there is a second DD Form 214 in August 2000 or thereafter but was unable to find the document. As of note, aside from the DD Form 214 issued for his service in the U.S. Marine Corps, there were no additional DD Forms 214 found in his service record located in the Interact Personnel Electronic Records Management System (iPERMS).

3. The applicant provides:

- District Court of the State of Washington for Walla Walla County Order Changing Name, dated 30 April 2021, ordered, adjudged, and decreed the applicant's name changed to "Le__ Th__ Lo__."
- Army Reserve Retired identification card, issued 11 August 2021, reflects his legal name change of "Le__ Th__ Lo__."

- Washington Driver License, issued 3 November 2022, reflects his legal name change of “Le__ Th__ Lo__.”
 - a. Washington State Department of Health Social Worker Independent Clinical License, effective 10 February 2013, reflects his legal name change of “Le__ T. Lo__.”
4. A review of the applicant’s service record shows:
- a. The applicant’s service record found in iPERMS contain two (2) DD Forms 214 for the same period of service, ending on 16 June 1995 in the USMC.
 - b. On 27 September 1999, he enlisted in the U.S. Army Reserve for eight (8) years in the pay grade E-4, identifying self as a female.
 - c. DA Form 1059 (Service School Academic Evaluation Report), 21 January 2005, reflects he attended and successfully completed the TATS SACC Basic Noncommissioned Officer Course (BNCOC), for the period of 8 January 2005 through 21 January 2005. As of note, the duration of this course was less than 30 days; therefore, a DD Form 214 was not issued as prescribed in Army Regulation (AR) 635-5 (Separation Documents).
 - d. U.S. Army Human Resources Command Orders, 18 June 2009, reassigned him in the Reserve for the reason of appointment, with an effective date of 19 May 2009.
 - e. He took the Oath of Office as a Reserve Commissioned Officer on 19 May 2009 under the name "Ly__ El__ Ha__" and identified self as a female.
 - f. Headquarters, U.S. Army Reserve Command Orders 13-080-00040, dated 21 March 2013, reflects he was honorably discharged on 1 April 2013 from the U.S. Army Reserve, under the provisions of Army Regulation 135-175. The standard name line reflects the name as recorded on his Oath of Office.
5. The ABCMR has, in the past, denied similar applications on the basis that the DD Form 214 is a historical document that should reflect the record as it existed at the time the DD Form 214 was created. The underlying reasoning has been that a post-service name change does not retroactively create an error on the DD Form 214.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant served in the USMC through 16 June 1995. Any changes

to this form should be addressed to his branch of service. The applicant enlisted in the USAR on 27 September 1999 and was appointed as a commissioned officer on 19 May 2009, in each case using the contested name and identifying self as a female. The applicant states he legally changed his name on 30 April 2021 and would like his military records to match other legal documents. He mentions that there is a second DD Form 214 in August 2000; however, he failed to provide such DD Form 214. The DD Form 214 is a historical document that should reflect the record as it existed at the time the DD Form 214 was created. In the absence of a DD Form 214, the Board is unable to consider the requested change. If the applicant has a copy of his DD Form 214, the applicant may resubmit the applicant to this Board for reconsideration.

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.

■ [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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, USC, section 1552(b), provides that applications for correction of military records must be filed within three years after discovery of the alleged error or injustice. This provision of law also allows the Army Board for Correction of Military Records (ABCMR) to excuse an applicant's failure to timely file within the three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 635-8 (Separation Processing and Documents), currently in effect, prescribes the transition processing function of the military personnel system, including preparation of the DD Form 214.

a. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge.

b. For block 1, compare with the original enlistment contract or appointment order and review the official record for possible name changes. If a name change has occurred, list other names of record in block 18 (Remarks).

c. For block 18, in part, when a DD Form 214 is administratively issued or reissued, enter "DD FORM 214 ADMINISTRATIVELY ISSUED/REISSUED ON (date)." However, do not make this entry if the appellate authority, Executive Order, or Headquarters, Department of the Army, directs otherwise.

d. On direction of the ABCMR or Army Discharge Review Board, or in other instances when appropriate, the Deputy Assistant Secretary of the Army (Review Boards) (DASA (RB)), Army Review Boards Agency (ARBA), is authorized to issue or reissue DD Forms 214. Once a DD Form 214 has been issued, it will not be reissued except under specified circumstances including when it is determined that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215 (Correction to DD Form 214).

//NOTHING FOLLOWS//