

IN THE CASE OF: [REDACTED]
[REDACTED]

BOARD DATE: 27 March 2024

DOCKET NUMBER: AR20230008376

APPLICANT REQUESTS: His last name be changed from [REDACTED] to [REDACTED]

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

- DD Form 149 (Application for Correction of Military Record)
- Court Order granting a name change
- SSN Card

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 all of his other government documents have the name [REDACTED] except his DD Form 214 (Armed Forces of the United States - Report of Transfer or Discharge).
3. A review of the applicant's service record shows:
 - a. All documents in his official records utilize the last name [REDACTED]
 - b. The applicant was inducted into the Army of the United States for 2 years on 14 May 1968, under the last name of [REDACTED]
 - c. He served in Vietnam from 20 November 1968 through 13 January 1969 for a period of 1 month and 24 days.
 - d. The applicant was released from active duty and transferred to the United States Army Reserve on 13 May 1970. His DD Form 214 shows his characterization of service as honorable; he is credited with 2 years of active-duty service, and his awards are listed as the Army Good Conduct Medal, National Defense Service Medal, Vietnam

Service Medal, Republic of Vietnam Campaign Medal, and the Expert Qualification Badge with Rifle Bar.

e. The applicant served in Vietnam during one campaign period and is authorized to wear one bronze service star on his Vietnam Service Medal. His DD Form 214 does not reflect this appurtenance.

4. The applicant provided a copy of a legal name change that shows:

a. On 29 June 1970 (the month after his discharge), the applicant requested the Civil Court of the City ██████████ County of ██████████ to officially change his name from ██████████ to ██████████

b. The court granted his request on 8 August 1970.

5. Department of the Army General Orders Number 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U. S. Army - Vietnam (USARV), and its subordinate units during the period 20 July 1965 to 28 March 1973.

6. For historical purposes, the Army has an interest in maintaining the accuracy of its records. The data and information contained in those records should actually reflect the conditions and circumstances that existed at the time the records were created. In the absence of a showing of material error or injustice, this Board is reluctant to recommend that those records be changed.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. One potential outcome was to deny relief based on the applicant used the contested name his entire career, although he provided a court order, this is a post service change after his separation. However, upon review of the applicant's petition, available military records and Civil Court of the City of ██████████ County ██████████ court order, the Board determined there is sufficient evidence to support the applicant request for a change in his last name based on the civilian court order. As such, the Board granted relief.

2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	:	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	█	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214 for the period ending 13 May 1970, showing his name as shown on the court-ordered name change.

4/8/2024

X

CHAIRPERSON

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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's record shows his DD Form 214, for the period ending 13 May 1970 is missing an entry that does not require Board action. As a result, amend the DD Form 214 by adding the following entries to item 24 (Decoration, Medals, Badges, Citations, and Campaign Ribbons) to include the Republic of Vietnam Gallantry Cross with Palm Unit Citation and adding one bronze service star to his already awarded Vietnam Service Medal.

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 Army Board for Correction of Military Records (ABCMR). Paragraph 2-9 states that 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 601–210 (Regular Army and Reserve Components Enlistment Program) states the name under which an individual initially enlists in the U.S. Armed Forces will be the name on the individual's social security card. [This provision of the regulation was not in effect at the time of the applicant's service.]
4. Army Regulation 600-8-22 (Military Awards) states that the Vietnam Service Medal is awarded to all members of the armed forces who served in Vietnam or its contiguous waters or airspace during the period 3 July 1965 through 28 March 1973. Service on temporary duty must have been for 30 consecutive days or 60 nonconsecutive days. Additionally, a bronze service star is authorized to be worn on Vietnam Service Medal for each campaign period during their period of service in Vietnam.

//NOTHING FOLLOWS//