

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 January 2024

DOCKET NUMBER: AR20230008705

APPLICANT REQUESTS: correction of her military service records to amend her name and gender to reflect her updated name and gender:

- Name from [REDACTED]
- Gender from male to female

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

- DD Form 149 (Application for Correction of Military Record)
- Birth Certificate
- Social Security Card
- Driver License

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 legally changed her name and gender and wants these changes to be reflected on her military service records as they are already updated on her VA records.
3. The applicant served on active duty from 9 April 2003 to 4 August 2003. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was discharged for entry level performance and conduct. It also shows in item 1 (Name (Last, First, Middle): [REDACTED] (the contested name).
4. She enlisted in the Regular Army on 20 September 2007.
5. On 29 November 2012, she was honorably discharged under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations), paragraph

13-2E and the narrative reason for separation reflects physical standards. Her DD Form 214 also shows in item 1: [REDACTED] (the contested name).

6. The applicant provides:

- Birth Certificate, dated 16 June 2022, which reflects her name as [REDACTED] (the requested name) and gender as female (the requested gender)
- Social Security Card, dated 16 May 2022, which reflects her name as [REDACTED] [REDACTED] (the requested name)
- Driver License, dated 25 April 2023, which reflects her name as [REDACTED] (the requested name)

7. The ABCMR limits corrective action to documents that can be individually reviewed after a Soldier's separation, such as the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge. The DD Form 214 is a historical document that should reflect the record as it existed at the time the DD Form 214 was created. A post-service name change does not retroactively create an error on the DD Form 214. However, the unique circumstances of transgender individuals may prevent or delay receipt of benefits for which these individuals must provide a DD Form 214 as proof of military service.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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. Upon review of the applicant's petition and available military records, the Board determined the record is absent a court order changing the applicant's name legally. The Board found the applicant's driver's license, social security card and birth certificate insufficient to correct the record without a court order. Based on this, the Board denied relief.

2. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

2/7/2024

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.

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 635-8 (Separation Processing and Documents), currently in effect and dated 10 February 2014, prescribes the transition processing function of the military personnel system, including preparation of the DD Form 214 (Certificate of Release or Discharge from Active Duty).

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 Item 1 (Name), 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 item 18 (Remarks).

c. For Item 18 (Remarks), 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. 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, at the direction of the ABCMR or in other instances when appropriate, 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//