

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 June 2024

DOCKET NUMBER: AR20230011624

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty), to show his current legal name and change the name in block 19b (Nearest Relative) from "K\_\_ U\_\_" to "E\_\_ C\_\_."
- telephonic/video appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- State of Florida Marriage Record
- DD Form 214, effective 21 July 1996

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:

a. He is seeking correction of Block 19b of his DD Form 214, for the service period ending 21 July 1996, because he lost contact with his former spouse and has since remarried. He would like to add his new spouse, E\_\_ C\_\_.

b. Additionally, he would like to change his first name from the contested name on his DD Form 214 to C\_\_. He states that he transitioned over 30 years ago and does not have any transgender change documentation but had successfully had all of his records through [Department of] Veterans Affairs changed.

3. A review of the applicant's service record shows:

- a. The applicant enlisted in the Regular Army on 12 April 1983.

b. The applicant's DD Form 93 (Record of Emergency Data), dated 9 January 1992, shows the applicant's contested first name. Additionally, it shows in item 4 (Spouse's Name/Address) "K\_\_ U\_\_..."

c. The applicant's DA Form 2-1, Personnel Qualification Record, also reflects the applicants contested first name.

d. Orders 150-0007, 29 May 1996, discharged the applicant from active duty with an effective date of 21 July 1996. The discharge orders reflect the contested first name.

e. The applicant was honorably discharged from active duty on 21 July 1996. The applicant's DD Form 214 shows the applicant completed 13 years, 3 months, and 10 days of active service. This DD Form 214 further shows in:

- Block 1 (Name, Last, First, Middle) the applicant' contested first name.
- Block 19b (Nearest Relative) – K\_\_ U\_\_, XXXX, MacDill AFB, FL 33621.

4. The applicant provides an Application to Marry, issued by the State of [Name], issued on 21 November 2000 and expired on 23 January 2001, and the name of the applicant's spouse EI\_\_\_\_\_.

5. By regulation (AR 635-5), in effect at the time, the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. The information entered thereon reflects the conditions as they existed at the time of separation. For Block 19b (Nearest Relative), obtain from the soldier the name, and address of a relative (permanently located) who will know the location and address of the soldier at all times. If the soldier does not have a relative in this category, then the name of a close friend whom the soldier keeps informed of his/her location and address. If this address is the same as block 19a, enter the relative/friend's name and "address same as block 19a."

#### BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. 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.

a. First Name: Deny. The evidence of record shows the applicant used the contested first name during their service. The Board found no evidence the applicant used the requested first name during service. Also, the applicant does not provide a

post discharge court order authorizing a name change. 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. 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, unless there is sufficient evidence that shows a material error or injustice.

b. Adding Spouse to the DD Form 214. Deny. The name and address of the nearest relative is provided by the Soldier to the official preparing the DD Form 214. The Board noted no provision in the governing regulation that allows a change to the name of the nearest relative every time a Soldier is married or divorced, and that is because the entry on the DD Form 214 reflect the conditions and circumstances that existed at the time the DD Form 214 was created, unless there is sufficient evidence that shows a material error or injustice, which the Board did not find.

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]

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[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, 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. AR 15-185 (ABCMR) 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, which is that what the Army did was correct. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
3. 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 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. For Item 19b (Nearest Relative), obtain from the soldier the name, and address of a relative (permanently located) who will know the location and address of the soldier at all times. If the soldier does not have a relative in this category, then the name of a close friend whom the soldier keeps informed of his/her location and address. If this address is the same as block 19a, enter the relative/friend's name and "address same as block 19a."

e. 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//