

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 October 2024

DOCKET NUMBER: AR20240001019

APPLICANT REQUESTS: reconsideration of her previous request that her General Court-Martial Order to show her current legal name instead of her contested name.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, Certificate of Release or Discharge from Active Duty)
- Cooper University Hospital Continuing Care, 7 July 2020
- Civil Action, Final Judgment, 11 December 2020
- Letter, U.S. Army Legal Service Agency, 2 April 2021
- Memorandum, Army Review Boards Agency, 12 January 2022
- Letter, Military Correctional Complex, 25 April 2022
- ABCMR Docket Number AR20220005475, 25 August 2022
- U.S. Department of Justice, Federal Bureau of Prisons, Administrative Remedy, Part B – Response, 22 September 2022
- Memorandum, U.S. Department of Justice, Federal Bureau of Prisons, United States Penitentiary, 26 January 2023
- Response to Docket Entry 23 Showing “Mail Returned as Undeliverable”, Filed 23 October 2023
- Bureau of Prisons Health Services, Health Problems Information Sheet
- Federal Bureau of Prisons and Department of Justice Inmate Identification Cards

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20220005475 on 25 August 2022.

2. The applicant states, in effect:

a. She is confined in the Federal Bureau of Prisons and is not allowed to go by her gender-affirming name unless her court-martial order is amended to her requested name. She submits evidence which reflects the real need for the correction to be made due to her mental health and communications.

b. She has a lengthy sentence due to her actions and court-martial and she will be serving many more years incarcerated in the Federal Bureau of Prisons as part of her sentence. If the name on her court-martial is not corrected, she will be forced to go by her contested name while in Federal Bureau of Prisons custody. This has already interfered with civil court proceedings and has caused great mental distress as she is diagnosed with gender dysphoria.

c. Currently the Federal Bureau of Prisons issues inmates an identification based on the name listed on their judgment letter/court-martial. She must carry the identification, answer to correspondence and otherwise be required to live using the contested name. Evidence shows the United States District Court for The Southern District of Illinois identifies her with her requested name; however, the Federal Bureau of Prisons refuses to accept her requested name.

3. On 8 February 2006, she enlisted in the Regular Army for a period of 5 years and 19 weeks. Her DD Form 4 (Enlistment/Reenlistment Document – Armed Forces of the United States) shows the contested name.

4. On 9 January 2014, Headquarters, U.S. Army Fires Center of Excellence, Fort Sill, issued General Court-Martial Order (GCMO) Number 16, dishonorably discharging her. GCMO Number 16 shows the contested name.

5. On 22 January 2014, Headquarters, U.S. Army Installation Management Command, Headquarters, U.S. Army Garrison, Fort Sill issued orders reassigning her to U.S. Army transition point for processing.

6. On 24 January 2014, she was discharged. Her DD Form 214 was subsequently corrected to show her requested name.

7. All of the documents in her military record reflect the contested name except for the recently corrected DD Form 214.

8. The applicant provides a/an:

a. 1-page document from Cooper University Hospital discussing her history of gender dysphoria and feelings of helplessness in accessing medical attention.

b. Civil Action Final Judgment from the Superior Court of New Jersey authorizing her to assume her current name.

c. Letter from the Office of the Clerk of Court, U.S. Army Court of Criminal Appeals, 2 April 2021, in which her request to Petition for Change of Name was returned without action.

d. Memorandum from ARBA, 12 January 2022, stating the Army Clemency and Parole Board denied her request for clemency.

e. Letter from Department of the Army, Military Correctional Complex, Fort Leavenworth, KS, Inmate Administration-Boards Branch, 25 April 2022, which addresses her by her requested name.

f. ROP AR20220005475, 25 August 2022, which granted her partial relief by correcting her DD Form 214 to her requested name; however, the Board found the record of a conviction under a previous name (i.e., General Court-Martial Order Number 16) should be maintained in its current state in the interest of maintaining accuracy in records related to criminal conduct.

g. U.S. Department of Justice, Federal Bureau of Prisons, Administrative Remedy, Part B – Response, 22 September 2022, which contains the statement, “The name entered on the Judgment and Commitment file is considered the committed name to be used by the inmate, as well as the Bureau. SENTRY must reflect the committed name, which may only be changed by an order from the Federal sentencing court.” She was encouraged to work with the sentencing court for a committed name change.

h. Memorandum from the U.S. Department of Justice, Federal Bureau of Prisons, United States Penitentiary Marion, IL, 26 January 2023, which verifies that they have records in the applicant’s contested and requested name.

i. Response to Docket Entry 23 Showing “Mail Returned as Undeliverable.” Notes the applicant’s mail was returned because her committed name was not on the envelope. Document further states, “The only way to change an inmates committed name is by a judgment entry from the sentencing court – in this case, the Department of the Army.”

j. Bureau of Prisons Health Services Health Problems list for the applicant. Inmate name is listed as the contested name.

k. Federal Bureau of Prisons inmate identification cards which list the contested name.

#### 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.

a. The evidence of record shows the applicant enlisted, served, and was separated under the contested name. All documents in her official record reflect the contested name. She previously applied to this Board for correction of her name contending that she is a transgender woman who changed her legal name to align with her gender identity. Consistent with DOD guidance regarding transgender personnel, the Board granted relief and reissued her a DD Form 214 reflective of her new name.

b. As far as an amendment to the court-martial order to reflect her requested name, the Board found the applicant's request has no merit. The reasons for the applicant's two reasons:

(1) 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.

(2) The ABCMR generally limits corrective action to documents that can be individually reviewed after a Soldier's separation. The DD Form 214 is the document that is normally accessible by individuals other than the Soldier, and this document has already been corrected.

(3) 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.

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 to amend the decision of the ABCMR set forth in Docket Number AR20220005475 on 25 August 2022.

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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:

Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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.

//NOTHING FOLLOWS//