

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 October 2024

DOCKET NUMBER: AR20240004125

APPLICANT REQUESTS:

- amendment of the name on the DD Form 214 (Certificate of Release or Discharge from Active Duty) to show M__ V__ vice C__ D__
- an under honorable conditions (General) characterization of service upgrade

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 25 May 2016
- State of [Name], County of [name], Final Court Order, 20 December 2021
- Medical Document – Gender Reassignment Operation, 21 December 2021

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 he is requesting an administrative correction of his name. He is also requesting an upgrade to his discharge to reflect Under Honorable Conditions (General), as he did not receive any disciplinary measures during his service and served as an exemplary member of his platoon. He began hormone replacement therapy on March 31, 2020, and he received a signed court order to legally change his name on December 20, 2021. He also underwent gender reassignment surgery on 07/07/2021. Also, his military personnel record reflects he received no disciplinary measures while serving, and therefore, his Entry Level Separation should be upgraded to under honorable conditions (General).
3. Regarding the discharge upgrade, the applicant's request to this Board (ABCMR) is premature as he has not exhausted his administrative remedies. Since he is still within 15 years of separation date, the applicant is advised to apply to the Army Discharge Review Board (ADRB) using a DD Form 293 (Application for the Review of Discharge

from the Armed Forces of the United States). The ADRB examines an applicant's request to review the individual's administrative discharge and to change the characterization of service and/or the reason for discharge based on the standards of equity and propriety. Therefore, this issue will not be discussed further by this Record of Proceedings.

3. The applicant's DD Form 4 (Enlistment/Reenlistment Document) shows the applicant enlisted in the Regular Army on 1 March 2016. The applicant disclosed their name (first, middle, last) as "Ca_ Ir_ Da_" and their gender as "female."

4. The applicant was discharged from active duty on 25 May 2016 for entry level performance and conduct. The applicant's DD Form 214 reflects the applicant's full name "Ca_ Ir_ Da_."

5. The applicant provides:

a. Court Order, dated 20 December 2021, that approved the applicant's name change from "Ca_ Ir_ Da_" to "Ma_ Se_ Vo_."

b. Medical document, dated 21 December 2021, from a center for cosmetic and reconstructive surgery, states on 7 July 2021, a state licensed physician performed gender reassignment surgery (bilateral nipple-sparing mastectomy) to the applicant and the physician attests that the applicant has completed gender reassignment surgery appropriate clinical treatment for the purpose of gender transition from female to male.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, 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 review based on law, policy and regulation. Upon review of the applicants petition and available military records, the Board majority determined there is sufficient evidence to grant full relief. Based on this, the Board granted relief to correct the applicant's name as that reflected on his court order name change. The Board minority determined as a matter of official record, the applicant served under the name of record and therefore the record should reflect that of which the applicant served at the time of discharge.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 his name to reflect that annotated on his court order name change.

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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:

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, prescribes the transition processing function of the military personnel system, including preparation of the DD Form 214. It states:

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//