

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 March 2025

DOCKET NUMBER: AR20240007688

APPLICANT REQUESTS: in effect, correction to his DD Form 214, Certificate of Release or Discharge from Active Duty to show:

- he was awarded the Global War on Terrorism Expeditionary Medal (GWOTEM)
- the narrative reason for separation was retirement, due to disability
- his current legal name JAV

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

- DD Form 149, Application for Correction of Military Record
- DA Form 2173, Statement of Medical Examination and Duty Status
- Memorandum, Line of (LOD) Duty Determination
- DD Form 214
- Memorandum, Permanent Physical Disability Retirement

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, in effect –

a. His foreign service in Iraq/Kuwait is a qualifying period for award of the GWOTEM.

b. The medical retirement he received was based on an active duty period of service. However, the Physical Evaluation Board (PEB) took place after he was released from active duty and returned to his National Guard unit for a LOD. He contends that the injury he sustained occurred during his deployment.

c. His name legally changed after getting married. The Defense Finance and Accounting Service requires documentation of his legal name to update his pay record.

3. The applicant's request for the GWOTEM will be addressed through administrative correction without action by the Board.
4. The applicant enlisted in the Minnesota ARNG on 30 April 2012. His enlistment contract contains the contested name.
5. On 10 October 2019 the applicant entered active duty in support of Operation Enduring Freedom (Spartan Shield).
6. A DA Form 2173, 20 May 2020, provided by the applicant, shows that while deployed to Iraq, the applicant reaggravated a back injury while conducting physical readiness training on 3 February 2020. His injury was determined to be in the LOD-EXISTED PRIOR TO SERVICE-SERVICE AGGRAVATION.
7. He was released from active duty on 20 June 2020. The DD Form 214 he was issued at the time lists the contested name.
8. On 27 January 2022, the applicant appeared before a PEB for evaluation of his lumbar spine disc displacement. The PEB found that the applicant was physically unfit and recommended a disability rating of 40% with permanent disability retirement. This form shows the applicant was a drilling member of the ARNG at the time of this evaluation. The applicant concurred with the findings and recommendation, and he waived a formal hearing.
9. The applicant's NGB Form 22, National Guard Report of Separation and Record of Service, shows he was transferred to the Retired Reserve on 5 March 2022. This form further shows -
 - a. The contested name is listed in Block 1, LAST NAME-FIRST NAME-MIDDLE NAME.
 - b. The authority and reason for separation is listed as "NGR (AR) 600-100 PLCMNT ON PERM DIS RET LST" in BLOCK 23, Authority and Reason.
10. On 6 March 2022, the applicant was placed on the Permanent Disability Retired List.
11. The applicant provides his marriage certificate, 25 September 2023, which indicates that his name would change to JAV after the marriage.

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 review based on law, policy, and regulation. The evidence presented does not demonstrate the existence of a probable error or injustice. The applicant used the contested name during his entire period of service. The Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. Based on the service record and a preponderance of the evidence, the Board denied relief. The Board minority determined the applicant's marriage certificate provided sufficient evidence to justify a post-service name change to the applicant's DD Form 214.

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.

3. The applicant is advised that a copy of this decisional document, along with his application and the supporting evidence he provided, will be filed in his official military records. This should serve to clarify any questions or confusion regarding the difference in the name recorded in his military records and to satisfy his desire to have his name documented in his military records.

4. Disability Retirement. Deny. Upon review of the applicant's petition, and available military records, the Board concluded the applicant's NGB Form 22 accurately reflects the applicant's permanent disability retired list narrative; however, his DD Form 214 was completed prior to his line of duty and accurately reflects the circumstances as they existed at the time; therefore, the Board denied relief.


5. Prior to closing the discussion, the Board reviewed and concurred with the administrative note below.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:XX	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XX	:	:XX	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.



X //SIGNED//

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 is authorized additional awards:

- Army Superior Unit Award
- Meritorious Unit Commendation Award
- GWOTEM

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, Personnel Separations-Separation Processing and Documents, states the DD Form 214, Certificate of Release or Discharge from Active Duty, is 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. The DD For 214 is not intended to have any legal effect on termination of a Soldier's service.
3. Recent Office of the Assistant Secretary, Manpower and Reserve Affairs policy, Subject: Administrative Name Changes to Department of Defense DD Form 214, implemented a temporary initiative that allows Soldiers and veterans to request administrative name changes to the DD Form 214 pursuant to a court order without petitioning the ABCMR.

//NOTHING FOLLOWS//