



DEPARTMENT OF THE ARMY  
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS  
251 18TH STREET SOUTH, SUITE 385  
ARLINGTON, VA 22202-3531

December 22, 2014

[REDACTED]

[REDACTED]

Dear Major [REDACTED]:

The Army Board for Correction of Military Records rendered a decision on your application to correct your military records. Full relief to your request was granted. Enclosed is a copy of the Record of Proceedings of the Board for your information.

The approved Record of Proceedings has been forwarded to the Army Review Boards Agency Case Management Division. They will take action to correct your records and will provide you with official notification as soon as the directed correction has been made. However, due to the large number of cases in process, please be advised that it may be several months before corrections are completed.

A copy of the Board's decision and proceedings has been furnished to the counsel you listed on your application, Mr. Stephen Lessard, 51 W. 52<sup>ND</sup> Street, New York, NY 10019-6142.

Sincerely,

Gerard W. Schwartz  
Acting Director, Army Board for Correction  
of Military Records

Enclosure



DEPARTMENT OF THE ARMY  
ARMY BOARD FOR CORRECTION OF MILITARY RECORDS  
251 18TH STREET SOUTH, SUITE 385  
ARLINGTON, VA 22202-3531

SAMR-RBA

22 December 2014

MEMORANDUM FOR Case Management Division, US Army Review Boards Agency,  
251 18th Street South, Suite 385, Arlington, VA 22202-3531

SUBJECT: Army Board for Correction of Military Records Record of Proceedings  
for [REDACTED]

1. Under the authority of Title 10, United States Code, section 1552, the recommendation of the Army Board for Correction of Military Records is hereby approved, and I direct that all the Department of the Army records of the individual concerned be corrected as shown under Board Determination/Recommendation in the Record of Proceedings in the subject case enclosed.
2. Request necessary administrative action be taken to effect the correction of records as indicated no later than **22 April 2015**. Further, request that the individual concerned and counsel, if any, as well as any Members of Congress who have shown interest be advised of the correction and that the Army Board for Correction of Military Records be furnished a copy of the correspondence.

BY ORDER OF THE SECRETARY OF THE ARMY:

GERARD W. SCHWARTZ  
Acting Director, Army Board for Correction  
of Military Records

Encl

CF:  
 OMPF

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

AKA: [REDACTED]

BOARD DATE: 18 December 2014

DOCKET NUMBER: [REDACTED]

THE BOARD CONSIDERED THE FOLLOWING EVIDENCE:

1. Application for correction of military records (with supporting documents provided, if any).
2. Military Personnel Records and advisory opinions (if any).

THE APPLICANT'S REQUEST, STATEMENT, AND EVIDENCE:

1. The applicant requests correction of block 18 (Remarks) of his DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 29 January 2013, by deleting the entry "Block 1: "Other Name(s) of Record: [REDACTED]."
2. The applicant defers to counsel's statement.
3. The applicant provides:
  - statement from counsel
  - court order changing his name
  - Record of Proceedings for Army Board for Correction of Military Records (ABCMR) Docket Number [REDACTED]
  - DD Form 214 for the period ending 29 January 2013

COUNSEL'S REQUEST, STATEMENT AND EVIDENCE:

1. Counsel states the applicant served honorably for over 18 years and was medically retired on 29 January 2013 with an honorable characterization of service. Counsel lists the applicant's assignments and awards and further states:
  - a. On 21 July 2011, while still on active duty, the applicant was granted a court order changing his name to "[REDACTED]." The request is being made to correct an error and it is in the interest of justice that the applicant's DD Form 214 be corrected to remove the explicit reference to his former name in

block 18. The DD Form 214 is commonly required by employers, particularly for employment in positions which have a preference for veteran candidates. There is no Federal law that consistently protects transgender individuals from employment discrimination. As a result, transgender veterans face serious possibilities of discrimination in employment.

b. Transgender veterans may be systematically denied access to veteran's benefits and services due to the incongruities between names (and implied genders) that appear on their DD Forms 214 and their current and correct names and genders otherwise reflected accurately in court orders, state identification cards, and revised birth certificates. Alternatively, even in the event that a transgender veteran is eventually allowed access to these benefits, this access may have been delayed or obtained only after the veteran was subjected to difficult and embarrassing administrative burdens requiring an explanation of these discrepancies.

c. The applicant understands that current regulations provide for entering other name(s) of record during military service on the DD Form 214. However, the regulatory policy in effect at the time had no such provision. The applicant does not believe there is any authoritative guidance compelling the Board to require that other name(s) that he used be listed in block 18 of his DD Form 214. The inclusion of the applicant's name on his DD Form 214 is a deviation from the authorized guidance existing at the time of his retirement.

d. The applicant understands that it has been this Board's policy not to amend a veteran's military records absent error because the Board views such records as historical documents which record the facts of an individual's service. The applicant believes the Board can amend its own policy in order to prevent an injustice.

e. Current statutory law generally permits transgender individuals in nearly all states to change their name and gender on their birth certificate and receive a new or amended birth certificate. The laws permitting such changes to birth certificates, once argued to be historical records of the facts as they existed at birth, are not, and need not be, treated as such perfect proof of a particular fact that countervailing values in having them changed should be ignored. It has long been recognized that the reasoning behind rules permitting record changes is that if information contained therein is of little interest to the public and if preservation of data might harm the individual, the records may be changed to enable the person to acquire respectability in the community.

f. The U.S. Department of State similarly permits transgender individuals to amend their name on U.S. Passports.

g. While a discrepancy in the name and gender, or explicit references to former names may not be a factual error, the concept of "injustice" should be considered in order to determine if a record should be amended to remove an injustice.

2. Counsel provides no additional documentary evidence.

CONSIDERATION OF EVIDENCE:

1. On 9 June 1989, the applicant enlisted in the U.S. Army Reserve (USAR) with the name "[REDACTED]". The applicant later served under this name as an enlisted Soldier in the Regular Army and then as a commissioned officer in the USAR. The applicant entered active duty in the Active Guard Reserve program on 3 March 2008.

2. A court order, dated 21 July 2011, was provided in support of a previous application changing the applicant's name from "[REDACTED]" to "[REDACTED]".

3. On 26 July 2011, the applicant submitted a request to change the first name in his military records from "[REDACTED]" to "[REDACTED]" effective 21 July 2011. He provided a court order dated 21 July 2011 changing his name and his request was approved.

4. He was promoted to the rank of major on 1 December 2011.

5. On 29 January 2013, he was honorably retired by reason of disability, permanent (enhanced). His DD Form 214 reflects his name change. However, block 18 contains the entry "Block 1: Other Name(s) of Record: [REDACTED]".

6. On 4 February 2013, the applicant received a court order, which he provided in support of a previous case that directed a change in his gender designation from female to male and the issuance of a new birth certificate showing him as a male.

7. Army Regulation 635-5 (Separation Documents), in effect at the time of his separation, provided guidance on the preparation of the DD Form 214. It provided, in pertinent part, that information on the DD Form 214 would be extracted from official records in effect at the time of separation. It did not prescribe the listing of other names of record in block 18 for Soldiers who had changed their names prior to separation.

8. 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 service. 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 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.

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 in other instances when appropriate, the Deputy Assistant Secretary of the Army, Army Review Boards Agency, 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).

DISCUSSION AND CONCLUSIONS:

Although the normal procedure for correcting an error on a DD Form 214 is to issue a DD Form 215, that would not be appropriate in this case. Considering the unique circumstances of transgender personnel, it would be appropriate to issue the applicant a new DD Form 214 for the period ending 29 January 2013. No entries should be made in block 18 of the reissued DD Form 214 listing his previous name or indicating that the DD Form 214 was administratively reissued. Doing so would undermine the purpose of granting relief by drawing attention to his previous gender. This proposed relief is limited to the DD Form 214 in question and does not extend to any other documents in the applicant's military records.



BOARD VOTE:

3      2      JRS      GRANT FULL RELIEF  
\_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      GRANT PARTIAL RELIEF  
\_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      GRANT FORMAL HEARING  
\_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for relief. As a result, the Board recommends that the Department of the Army records of the individual concerned be corrected by reissuing a DD Form 214 for the period ending 29 January 2013. No entries should be made in block 18 of the reissued DD Form 214 listing his previous name or indicating the DD Form 214 was administratively reissued.

  
\_\_\_\_\_  
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.