



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

TJR

Docket No: [REDACTED]

16 January 2015

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW NAVAL RECORD OF EX-LT [REDACTED], USN,  
[PRESENTLY [REDACTED]], [REDACTED]

Ref: (a) 10 U.S.C. 1552  
(b) OSD/DOD Name Change Provisions/Guidance

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record (DD Form 214)

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the Navy, filed enclosure (1) with this Board requesting a change to her naval record, specifically, to correct the record to reflect a name change. Enclosures (1) through (3) apply.

2. The Board, consisting of Mr. O'Neill, Mr. Ruskin, and Ms. McCain, reviewed Petitioner's allegations of error and injustice on 12 January 2015 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was commissioned in the Navy on [REDACTED], served without disciplinary incident, and honorably discharged on [REDACTED], at which time Petitioner was reappointed in the Naval Reserve. The record reflects that in [REDACTED] Petitioner tendered a resignation of commission, which was accepted on 1 [REDACTED]. On [REDACTED] Petitioner was honorably

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released from active duty upon completion of required active service. In this regard, Petitioner was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) based on the name used while servicing in the Navy, specifically, "[REDACTED]."

c. On [REDACTED], a [REDACTED] Judicial Circuit Court ordered and adjudged Petitioner's name change to "[REDACTED]" from [REDACTED]. After undergoing gender reassignment, on [REDACTED], a [REDACTED] Judicial Circuit Court ordered and adjudged an amendment to Petitioner's birth record by changing the sex/gender to "female" from male.

d. Transgender veterans encounter substantial burdens in obtaining post-service benefits because their names, and the gender implied by them, recorded on discharge documents no longer match their legal names. Because of this inconsistency, they may be denied access to benefits and services, or, even if they are ultimately provided the benefit or service, the veteran may have been subjected to delay or invasive questions requiring that he or she provide personal, confidential, and/or medical information to explain the discrepancies between the documents. Without a DD Form 214 that conforms to other identity documents, transgender veterans may also be subjected to an increased risk of employment discrimination because of their gender identity, denial of access to healthcare, and harassment and physical harm.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board notes the legal actions taken by civil authorities to change Petitioner's name and gender and concludes that in accordance with the provisions/guidance of reference (b), the DD Form 214 should be changed. With that being said, the Board concludes that Petitioner's DD Form 214 should be changed to reflect the present name of [REDACTED], and that Petitioner be reissued a "new and updated" DD Form 214. In this regard, the Board noted that normally a DD Form 215 would be issued to correct the record, however, the Board concluded that a new and updated DD Form 214 is warranted to eliminate the possibilities of invasive questions and other potential discrimination against the Petitioner. The Board further concluded that no other changes should be made to Petitioner's

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record, and that both the "previously issued DD Form 214 bearing the name of [REDACTED] (sex: male)", the new DD Form 214 bearing the name [REDACTED] (sex: female), and this report of proceedings should remain in the record for historical purposes.

In accordance with the foregoing, the Board concluded that the DD Form 214 should be corrected to reflect Petitioner's legal name and that Petitioner be issued an updated DD Form 214.

RECOMMENDATION:

a. That Petitioner's naval record, specifically, Block 1 of the DD Form 214, be corrected to reflect the name "[REDACTED]" instead of [REDACTED].

b. That Petitioner be issued a "new" DD Form 214 which reflects the name "[REDACTED]."

c. That no further changes be made to the record.

d. That a copy of this report of proceedings be filed in Petitioner's naval record, along with the previously issued DD Form 214 which reflects the name [REDACTED] and the updated DD Form 214 which reflects the name [REDACTED].

e. That upon request, the Department of Veterans Affairs be informed that Petitioner's application was received in November 2014.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c), it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.



T. J. REED  
Recorder

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5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



ROBERT J. O'NEILL  
Executive Director



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DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

Office of the Assistant Secretary

AFBCMR BC-2015- [REDACTED]

MEMORANDUM FOR THE CHIEF OF STAFF

Having considered the recommendation of the Air Force Board for Correction of Military Records, and under authority delegated by the Secretary, I direct the following corrections be made to all pertinent records of the Department of the Air Force concerning [REDACTED]:

The original DD Form 214, be declared void and a new DD Form 214, *Certificate of Release or Discharge from Active Duty*, issued in conjunction with the applicant's [REDACTED] retirement, be issued to reflect [REDACTED] in Block 1, *Name*.

This directive is effective immediately. In accordance with Section 1552(a)(4) of Title 10, United States Code, it is final and conclusive on all officers of the United States, who are required to take all necessary and appropriate action consistent with the corrections noted above and the attached Record of Proceedings (ROP).

4/11/2016

X 

Signed by: LOGRANDE.MICHAEL.F.1015021884  
MICHAEL F. LoGRANDE  
Deputy Director  
Air Force Review Boards Agency

Attachment:  
ROP

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RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2015-██████████

██████████  
COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

The DD Form 214, *Certificate of Release or Discharge from Active Duty*, be amended to reflect a name change.

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APPLICANT CONTENDS THAT:

As a transgender veteran, having a DD Form 214 that reflects a different name and gender identity than what is current legally, creates undue hardship, emotional burden and the potential for discrimination.

Through a court order, on ██████████, the State of ██████████ granted a name and gender change to the following legal identification documents: birth certificate, passport and driver's license. Only the DD Form 214 reflects the former identity and serves as a critical form of identification.

The applicant's complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

On ██████████, the applicant entered the Regular Air Force.

According to the DD Form 220, *Active Duty Report*, dated ██████████, the applicant entered active duty under the name currently reflected in official military records.

According to the DD Form 214, on ██████████, the applicant was released from active duty under the name currently reflected in official military records.

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AIR FORCE EVALUATION:

AFPC/DPSIR responded indicating they made the requested changes in the personnel data system. They provided a copy of the AF Form 281, *Notification of Change in Service Member's Official*

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Records, dated [REDACTED], created as a source document for the update. DPSIR also provided a copy of the document to Defense Finance and Accounting Service (DFAS).

The complete DPSIR evaluation is at Exhibit C.

AFPC/DPSOR recommends denial, indicating the name change is after the effective date of the DD Form 214 and the applicant did not provide evidence an injustice has occurred. The applicant departed active military service on [REDACTED]. The applicant's name changed on [REDACTED] and gender changed after undergoing gender reassignment surgery on [REDACTED], both after the effective closeout date on the DD Form 214.

Governing directives for the DD Form 214 (DoDI 1336.01, *Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series)* and AFI 36-3202, *Separation Documents*), state the DD Form 214 will "provide an accurate and complete summation of active military personnel service." The governing DoDI does not provide authority to change the contents of the DD Form 214 used to record past military service, for date changes after it's close out date, when the document is certified/uncontested accurate at the time of publication, or based on a potential undocumented injustice. In comparison, DD Forms 214 for name changes relating to divorce/separation/others recorded through a legal process after the effective date of the DD Form 214 are not corrected as the respective court document adequately records the change for benefits, entitlements and employment rights.

The complete DPSOR evaluation is at Exhibit D.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 12 Aug 15 for review and comment within 30 days. The applicant responded requesting the Board reject the recommendation by the DPSOR advisory opinion stating it conflicts with precedent of the Board, which has already granted the relief sought for an identically situated individual.

The applicant attached a copy of the 2004 case where the Board issued a decision providing a transgender veteran a name change to the DD Form 214. Although the Board recognized its existing practice of rejecting changes to "the applicant's original DD Form 214," the Board appropriately concluded that the applicant's original DD Form 214 was "a hindrance to the applicant should she be required to provide documents to a servicing facility for her needs, such as insurance companies, hospitals, places of employment, etc." The Board also concluded that it had the legal authority to issue an additional DD Form 214 reflecting the name change.

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The DPSOR recommendation that the applicant's request be denied because of failure to provide evidence that an injustice has occurred is flawed and if followed, would itself, create an injustice. It is flawed because it denies the fact that the Board's prior decisions were premised on the potential for the occurrence of an injustice in the future. The relief was granted without the applicant showing a past injustice had already occurred; the real possibility of an injustice occurring in the future was sufficient. The applicant's request falls squarely within the Board's prior reasoning and the same result should follow.

The relief the applicant is requesting is supported by a memorandum from the Office of the Assistant Secretary, Principal Deputy Assistant Secretary (Manpower & Reserve Affairs) dated 9 Mar 15, providing guidance to the Board with respect to name changes for transgender applicants. According to the memorandum, a working group composed of the Directors of the Army and Air Force Review Boards as well as Senior Executive Service representatives from the Navy M&RA, OSD/GC and OUSD/P&R "concluded that a records correction, limited to the DD 214, was a reasonable outcome when the applicant demonstrates that allowing the DD 214 to remain uncorrected would constitute an injustice, even if it were technically correct when issued."

Moreover, both the Army Board for the Correction of Military Records and the Board for Correction of Naval Records have granted relief in line with this Board's decision in the 2004 case cited previously. In January 2015, the Army Board issued a decision in favor of a transgender Army veteran seeking new DD Forms 214 reflecting a name change. It concluded that "it would be appropriate to issue the applicant a new DD Form 214." The Navy Board followed with a decision on 21 Jan 15 that brought all three Boards in agreement on this issue. That Board concluded that Block 1 of a transgender Navy veteran's DD Form 214 "should be corrected" to reflect the veteran's changed name, and that the veteran should "be issued a 'new' DD Form 214 which reflects the [changed] name." The Board's reason is also instructive here: "[N]ormally a DD Form 215 would be issued to correct the record; however, the Board concluded that a new and updated DD Form 214 is warranted to *eliminate the possibilities* of invasive questions and other potential discrimination against the Petitioner."

Given the recent decisions of the Army and Navy Boards, a decision in accordance with the advisory opinion in my case would create disparate treatment among similarly situated veterans. In the Army Board's decision, the applicant gives a compelling description of how the failure to provide the relief request may prevent or delay receipt of benefits. In the Navy case, the applicant explained how denial could subject the applicant to potential discrimination and harassment. If the Board follows the DPSOR advisory opinion, transgender veterans

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who served in the Army and Navy would obtain relief, while Air Force veterans would be denied that same relief.

The complete APPLICANT rebuttal is at Exhibit E.

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SAF/MR makes no recommendation, but indicates that the DD Form 214 is a document primarily created for the benefit of the veteran to establish entitlement to various government programs or in seeking employment with organizations that grant a veterans' preference. The correction should be to the DD Form 214 and for the limited purposes of mitigating an injustice caused by use of the DD Form 214. If there are extreme circumstances that support corrections to other Air Force records, it is recommended that the panel clearly determine what specific records that must be corrected to eliminate the determined error or injustice. (For example, a blanket correction to "any and all" records without a specific understanding of the records being corrected could be interpreted as an arbitrary action, and therefore should not be done). The AFBCMR should require proof that the applicant's name was legally changed. A signed and authenticated court order should be required. Further, the correction should be to the DD Form 214 and for the limited purposes of mitigating an injustice caused by use of the DD Form 214.

The complete MR evaluation is at Exhibit F.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the SAF/MR evaluation was forwarded to the applicant on 2 Sep 15 for review and comment within 30 days (Exhibit F). As of this date, no response has been received by this office.

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THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Sufficient relevant evidence has been presented to demonstrate the existence of an injustice. We took notice of the applicant's complete submission, including rebuttal, in judging the merits of the case. While the Board notes the comment from AFPC/DPTS that the applicant enlisted, served, and was separated under a former name, we believe the information provided in the applicant's request establishes an injustice. It is our opinion, should the applicant be required to present a DD Form 214 with a former name to external audiences, the

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applicant's circumstances would require disclosure of personal history that is needlessly intrusive thereby constituting an injustice. Further, we note the applicant has provided sufficient evidence of a formal name change by an authorized court order, a corrected driver's license, passport, birth certificate and a corrected social security card. Because gender is not identified on the DD Form 214, this Board finds that no action is required with respect to gender. Therefore, we recommend the applicant's record be corrected as indicated below.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that the original DD Form 214, be declared void and a new DD Form 214, *Certificate of Release or Discharge from Active Duty*, issued in conjunction with the applicant's [REDACTED] retirement, be issued to reflect '[REDACTED]' in Block 1, Name.

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The following members of the Board considered AFBCMR Docket Number BC-2015-[REDACTED] in Executive Session on 24 Sep 15 under the provisions of AFI 36-2603:

Ms. Noel C. Nolta, Panel Chair  
Mr. Thomas M. Kearney, Member  
Mr. Marion J. Martin, Member

All members voted to correct the records as recommended. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated [REDACTED], w/atchs.  
Exhibit B. Applicant's Master Personnel Records.  
Exhibit C. Memorandum, AFPC/DPSIR, dated 17 Feb 15.  
Exhibit D. Memorandum, AFPC/DPSOR, dated 4 Aug 15.  
Exhibit E. Letter, APPLICANT, dated 27 Aug 15.  
Exhibit F. Letter, SAF/MR, dated 2 Sep 15.

3/16/2016

X Noel C. Nolta

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NOEL C. NOLTA  
Panel Chair  
Signed by: NOLTA.NOEL.CHRISTINA.1014908940

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