

OpJAGAF 2018-14, 26 July 2018, Post-Service Name Change

TOPIC

Air Force Board for Corrections of Military Records authority to grant requests of individual's post service, to change the name listed on their original DD Form 214 to new legal name which reflects member's status as a transgender individual.

TEXT OF THE DECISION

This opinion is in response to an inquiry regarding whether the Air Force Board for Corrections of Military Records (AFBCMR) has the authority to grant an applicant the ability to change the name listed on the DD Form 214 to reflect the member's current status as a transgender individual with a new name. For the reasons set forth below, it is legally permissible for AFBCMR to grant name change requests.

BACKGROUND

Applicant received a DD Form 214 on 19 April 1977. Applicant's military personnel file shows that member enlisted, served and was discharged with her prior name. Additionally, applicant is a fully-transitioned transgender¹ female. She was diagnosed as a Male to Female Transsexual² and has undergone cross gender hormone therapy for over five years. She sought and, on 5 March 2015, received a legal name change in a State District Court. Since she legally changed her name she has sought and been issued the following in her new name: a State Commercial Driver License, a State Certificate of Live Birth, a passport card, and a social security card. She now requests that the DD Form 214 be changed to reflect her new name.

GUIDANCE

AFI 36-2608, *Military Personnel Records System*, Table A7.2, Evidence Required to Change or Correct Name, Rule 1, states "If the request to correct name is due to change by court-order, decree, or to comply with local state law," the member must provide "a certified copy of the court order or decree...." AFPC correctly points out Table A7.3, Name Changes, which states for each rule in the table, "[d]o not correct records of former members to show name changes occurring after discharge," and recommends the request be denied.

Notwithstanding the AFI provisions above, on 9 March 2015, the Principal Deputy Assistant Secretary of the Air Force for Manpower and Reserve Affairs (SAF/MR) issued guidance to the AFBCMR on name changes in the form of an advisory memo (that memo states that it "is not intended to predetermine outcomes or otherwise restrict the AFBCMR's statutory authority under

¹ On application, individual identified as "transgender". For the sake of this document, "transgender and transsexual" are synonymous.

² According to the Diagnostic and Statistical Manual of Mental Disorders (DSM)-5, the term "transsexual" denotes an individual who seeks, or has undergone, a social transition from male to female or female to male, which in many, but not all, cases also involves a somatic transition by cross-sex hormone treatment and genital surgery (sex reassignment surgery).

10 U.S.C. § 1552”). SAF/MR published the advisory in response to an increasing number of applicants who requested corrections to their DD Form 214s to reflect post-service name changes due to divorce or transgender status. The memo states that “[i]n many of these cases, the veteran asserts being required to present a DD Form 214 to government offices and/or potential employers that lists their old name effectively requires them to explain their personal history that they find needlessly intrusive and thus an injustice.”

DISCUSSION

In forming the advisory memo, SAF/MR considered the recommendations of a working group consisting of the Directors of the Army and Air Force Review Boards and Senior Executive Service representatives from the Navy M&RA, OSD/GC, and OUSD/P&R which concluded “that a records correction, limited to the DD Form 214, was a reasonable outcome when the applicant demonstrates that allowing the DD Form 214 to remain uncorrected would constitute an injustice, even if it were technically correct when issued.” SAF/MR advises the AFBCMR to strongly consider granting a requested name change on DD Forms 214 when presented with evidence of an injustice and proof that the applicant’s name was legally changed (e.g., a signed and authenticated court order).

The applicant legally changed her name in 2015. The applicant contends that her name on her DD Form 214 dated “19 April 1977” should be changed because disclosure of her former name, in effect, discloses her transgender status. The member submitted as evidence her court decree dated “05 March 2015” changing her name from “John Doe” to “Jane Doe.” Accordingly, AFBCMR may use its equitable authority to grant the request if it determines an error or injustice results in requiring applicant to continue to use their original DD Form 214 with their birth name rather than their legal name.

CONCLUSION

Based on the foregoing, we conclude it is legally permissible for AFBCMR to grant the request.

OPJAGAF 2018/14 26 July 2018