

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2008-181

XXXXXXXXXXXXXXXXXXXXX

XXX XX XXXX

a.k.a. XXXXXXXXXXXXXXXXXXXXX

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FINAL DECISION

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the case on August 8, 2008, upon receipt of the applicant's completed application, and assigned it to staff member J. Andrews to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated February 26, 2009, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

This case involves allegations of changed identity and gender. To provide clarity while maintaining anonymity in the body of this decision, the applicant, whose legal name and Social Security Number (SSN) appear first in the caption above, will hereinafter be referred to as "Jane Roe." The applicant alleged that she, Jane Roe, is the same person as the veteran whose name and SSN appear last in the caption above. This man, who will hereinafter be referred to as "John Doe," retired from the Coast Guard Reserve more than ten years ago and is now entitled to Reserve retirement pay and benefits because his 60th birthday has passed.

The applicant asked the Board to order the Coast Guard to pay John Doe's retirement pay and benefits to her, Jane Roe, using her new SSN, which is different from the SSN of John Doe. She alleged that, after retiring from the Coast Guard, because of a threat of violence by an ex-spouse, she legally changed her original male name to another male name—hereinafter "Jim Roe"—and received a new SSN under the name Jim Roe. Then, after undergoing a sex-change procedure, she legally changed her name a second time, from Jim Roe to Jane Roe.

The applicant alleged that because she recently attained age 60, she should be receiving Reserve retirement pay and benefits from the Coast Guard. However, she is not receiving them because Coast Guard records continue to reflect her original SSN and the

name John Doe. In support of her allegations, the applicant submitted photocopies of the following documents:

- A court order identifying the petitioner, John Doe, by his date and place of birth and parents' names, changing his name to Jim Roe, and sealing the order in accordance with State law;
- A court order stating that the petitioner, Jim Roe, had previously changed his name to Jim Roe, further changing the petitioner's name to Jane Roe, and sealing the order in accordance with State law;
- The United States Uniformed Services identification card of John Doe with his SSN and photograph;
- The United States Uniformed Services identification card of Jane Roe with Jane Roe's SSN and photograph, which depicts the same person whose photograph appears on John Doe's identification card;
- The Social Security card of Jane Roe with her SSN, dated July 6, 2007;
- A Department of Veterans' Affairs (DVA) identification card for Jane Roe;
- A State driver's license for Jane Roe, issued on May 31, 2007, which shows that she is female and that her date of birth is the same as that of John Doe;
- DVA medical records concerning the applicant's gender change, including a letter stating that Jane Roe "is a current patient in the Endocrinology clinic ... at the Veterans Affairs Medical Center";
- A DVA database print-out showing that John Doe is another name used by Jane Roe;
- A letter from a Human Resources Officer of another federal government agency stating that John Doe was personally known to him when he worked at and retired from that agency and that Jane Roe, who visited him on October 31, 2008, is the same person as John Doe;
- Coast Guard regulations stating that to effect a name change, a member must submit a copy of the court order authorizing the name change and that to effect a change of SSN, a member must submit a copy of a Social Security Card;
- A marriage license showing that Jane Roe recently married and is listed as the bride;

- A publication of the Social Security Administration concerning how victims of domestic violence may change their SSNs; and
- The Coast Guard's letter notifying John Doe that he had completed 20 years of satisfactory service for retirement purposes.

VIEWS OF THE COAST GUARD

On November 11, 2008, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he adopted the findings and analysis provided in a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC).

CGPC stated that John Doe has passed his 60th birthday and is eligible to receive retired pay. CGPC acknowledged John Doe's name changes but stated that originals of the certified documents should be submitted so that the name changes may be authenticated. Once the name changes are authenticated, CGPC stated, John Doe's official pay record should be corrected to reflect the name Jane Roe.

CGPC stated that the Personnel Services Center would not make the requested changes administratively absent evidence of a linkage between John Doe's and Jane Roe's SSNs. However, such linkage is apparently not available under the Social Security's rules in domestic violence cases. Therefore, CGPC stated, in light of the DVA's determination that John Doe and Jane Roe are the same person and that Jane Roe is entitled to the veterans' benefits of John Doe, the Board should find that the applicant "has supported a link between names and SSNs" once the name changes are authenticated.

CGPC stated that "if the BCMR is able to verify authenticity of documents relative to the applicant's name and SSN change, the electronic pay record of [John Doe and his SSN should] be changed to reflect [Jane Roe and her SSN]. The Coast Guard should pay any accrued and future retirement payments to the applicant under the new name/SSN. Additionally, if the applicant provides documentation relating to the change in gender, the applicant's gender should be changed from male to female in electronic records."

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On December 10, 2008, the applicant responded to the views of the Coast Guard. The applicant stated that she was not initially concerned about the gender shown in the Coast Guard's database because one's gender is not noted on an Armed Forces identification card. However, based on the advice of someone at Coast Guard Headquarters, she believes that the gender shown should be changed to female so that her husband may get an identification card as a dependent.

The applicant submitted with her response State database printouts showing that while she was still named Jim Roe, her gender was noted as female and her SSN was entered in the State's database as the SSN that belongs to Jane Roe. She also submitted two certified "true copies" of court orders that bear original signatures and the embossed

seals of State circuit courts. The first of these court orders changed John Doe's name to Jim Roe on December 23, 2002. The second changed Jim Roe's name to Jane Roe on November 20, 2006. Both court orders are signed by a State circuit court judge and a deputy clerk of the court.¹

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, and applicable law:

1. The Board has jurisdiction over this matter pursuant to 10 U.S.C. § 1552. Because John Doe has become eligible for retired pay and the applicant's name has changed within the last three years, the application is timely under 10 U.S.C. § 1552(b).

2. The applicant, whose name and SSN appear first in the caption on the first page of this decision, alleged that the military records of John Doe (the veteran whose name and SSN appear last in the caption) are her own records because she is the same person who served in and retired from the Coast Guard Reserve with that name. As John Doe's 60th birthday has passed, she asked the Board to order the Coast Guard to pay her the retirement pay and allowances, under her new SSN, to which John Doe is entitled and also to correct the Coast Guard's database to show her gender as female.

3. The JAG recommended that the Board grant the applicant's request if it can verify her identity changes by reviewing originals of the court orders changing John Doe's name to Jim Roe and Jim Roe's name to Jane Roe (the applicant). In response, the applicant submitted certified "true copies"—bearing original signatures and the embossed seals of the State circuit court—of the two court orders that respectively changed John Doe's name to Jim Roe as of December 23, 2002, and Jim Roe's name to Jane Roe as of November 20, 2006. Moreover, the applicant's military records and submissions show the following:

- The John Doe whose name was changed to Jim Roe by order of a State circuit court on December 23, 2002, has the same parents and date and place of birth as John Doe the veteran reservist whose retirement pay the applicant is claiming.
- Jim Roe changed his gender to female and acquired the SSN that now belongs to the applicant under the name Jane Roe. Jim Roe thereafter underwent another legal name change to become known as Jane Roe.
- The fact that John Doe and Jane Roe are the same person is acknowledged by the federal agency from which the applicant retired as a civilian employee

¹ The applicant asked that these true copies be returned to her as they are very difficult to attain since the records are sealed.

under the name John Doe and by the DVA, which has provided medical care to this person under both names and, in particular, medical procedures that have changed this person's gender from male to female.

- The applicant's home State recognizes her gender as female.

4. The Board has verified by reviewing true copies of the court orders that the applicant is the same person as John Doe, who retired from the Coast Guard Reserve as a PSC/E-7 with more than 20 years of satisfactory service; who recently passed his 60th birthday; and who has undergone two legal name changes, a gender change, and an SSN change. The applicant has submitted clear proof that she is the retired reservist she claims to be, that she has a new SSN, and that she is entitled to the retirement pay and benefits she earned under her original name and the SSN of John Doe. She has proved a linkage between the two names and SSNs in the caption on the first page of this decision by a preponderance of the evidence. Although her name, gender, and SSN have changed since she retired from the Reserve, the applicant is in fact the veteran whose name and SSN appear last in the caption on the first page of this decision.

5. The applicant is entitled to the retirement pay of John Doe—the veteran whose name and SSN appear last in the caption on the first page of this decision—and her husband is entitled to a dependent's identification card. Therefore, the fact that the Personnel Services Center's database still shows that the retirement pay is owed to a man, John Doe, under his old SSN is erroneous and unjust because the applicant is being denied significant pay and benefits owed to her by the Coast Guard.

6. Accordingly, relief should be granted by ordering the Coast Guard to correct the Personnel Services Center's electronic pay database to show that all of John Doe's retirement pay and benefits are to be paid to the applicant under her new name and SSN and that she is female.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application is granted and the military record of xxxxxxxxxxxxxxxxxxxxxxxx, USCGR (Retired), now legally identified as xxxxxxxxxxxxxxxxxxxxxxxx, shall be corrected as follows:

The Coast Guard shall correct the electronic database of the Personnel Services Center to show that this retired reservist is female, rather than male. In addition, the pay database shall be corrected so as to ensure that all of this retired reservist's accrued and future pay and benefits are paid to her under the name xxxxxxxxxxxxxxxx and her new Social Security Number: xxx xx xxxx.

The Coast Guard shall pay her any amount she may be due as a result of these corrections.

Randall J. Kaplan

Dorothy J. Ulmer

Ryan J. Wedlund