

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]
[REDACTED]

BOARD DATE: 5 January 2023

DOCKET NUMBER: AR20230006132

APPLICANT REQUESTS: correction of his military records, to include his DD Form 214 (Report of Separation from the Armed Forces of the United States), to show his last name is "Obe___," vice "Obu___."

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

- DD Form 149 (Application for Correction of Military Record)
- Court Order
- Driver License

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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 he would like the Board to update his military records to reflect his legal name change; in support of his request, he provides a court order that indicates, on 3 December 1956, a court directed his name change from "Obu___" to "Obe___." Additionally, he submits a copy of his driver license with his changed name.
3. A review of the applicant's service record reveals the following:
 - a. On 15 June 1949, the applicant enlisted into the Army of the United States (AUS) for a 1-year term; his NME (National Military Establishment) Form 4 (Enlistment Orders – United States) lists his last name as "Obu___." On 14 June 1950, the AUS honorably released the applicant from active duty and transferred him to the ERC (Enlisted Reserve Corps). His DD Form 214 reports his last name as "Obu___."

b. On 22 January 1951, orders called the applicant to active duty for a 21-month period; the Army subsequently extended him for an additional 3 months. On 14 January 1953, orders honorably released the applicant from active duty and transferred him back to the ERC for a remaining 5-year term. His DD Form 214 states his last name was "Obu__."

4. Special Regulation (SR) 615-360-1 (Enlisted Personnel – Discharge Procedures and Preparation of Separation Forms), in effect at the time, prescribed policies and procedures for the preparation of the DD Form 214. The regulation required DD Form 214 preparers to refer to the Soldier's service records for entries on the DD Form 214.

5. The Board has an interest in maintaining the accuracy of its records; for historical purposes, the data and information contained in those records should reflect the conditions and circumstances, as they existed at the time of the records' creation. In addition, the ABCMR normally limits corrective action only to documents, such as the DD Form 214, that are available for review by employers and/or government agencies following a Soldier's separation.

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 contentions, the military record, and regulatory guidance. Evidence of record consistently reflects the applicant contested name. The Board considered the court order showing the applicant's contested name and noted that it occurred after his period of service. After due consideration of the request, the Board determined the evidence presented did not meet the burden of proof in determining an error or injustice and a recommendation for relief is not warranted.

2. The applicant is advised that a copy of this decisional document will be filed in his official military personnel file. This should serve to clarify any questions or confusion in regard to the difference in his name recorded in his military record and the that currently being used by the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined 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.

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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.

REFERENCES:

1. Title 10, USC, 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. SR 615-360-1, in effect at the time, prescribed policies and procedures for the preparation of the DD Form 214. The regulation required DD Form 214 preparers to refer to the Soldier's service records for entries on the DD Form 214.

//NOTHING FOLLOWS//