

IN THE CASE OF: [REDACTED]

BOARD DATE: 31 January 2025

DOCKET NUMBER: AR20240003713

APPLICANT REQUESTS:

- removal of his name and identifying information from the titling block of a U.S. Army Criminal Investigation Division (CID) Law Enforcement Report (LER), the Defense Clearance and Investigations Index (DCII); and any other reports arising from allegations indecent exposure (other sexual misconduct), communicating a threat and conduct unbecoming of an officer
- appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)(online)
- Orders 038-105
- U.S. Air Force (USAF) Report of Investigation
- Military Police Investigation
- Flag
- Two DA Forms 4856 (Developmental Counseling)
- Officer record Brief (ORB)
- CID DNA
- Applicant Sworn Statement
- Investigators Summary
- Law Enforcement Report/Incident
- Statement (Daughter)
- General Officer Memorandum of Reprimand (GOMOR)
- Acknowledgment of GOMOR
- GOMOR Rebuttal Letter
- Filing Determination
- Four CID Response Letters
- Privacy Act Request to Change Record Form
- DD Form 4833 (Commander's Report of Disciplinary or Administration Action)
- Memorandum, Subject: Expungement of the Applicant
- Memorandum, Subject: Appeal to Partial Denial of Request for amendment of Record

- Memorandum, Subject: Titling Action Against the Applicant
- Memorandum, Subject: Expungement of the Applicant
- Memorandum, Subject: Request for DNA
- Memorandum, Subject: Expungement of the Applicant

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); 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:

a. Removal of Titling; for injustice of titling him with false and alleged offenses backed with no evidence, no convictions, no punishment under Uniform Code Military Justice (UCMJ) or court-martial. An investigation was conducted regarding an altercation between two German locals, his 6-year-old daughter then and the applicant on 1 June 2022 at a bus depot located in Heltersberg Village, Germany. He defended his daughter against a German school bus driver who racially targeted her on multiple occasions and even threatened to call the German police on her while she helped a friend pick up a pencil box at the bus stop during offloading. He and his kid went to talk to the driver and his supervisor, only to find out the driver was fired months ago and claimed not to speak nor understand English, but the supervisor did. They left the scene without resolving their concerns. The two Germans were not happy he confronted them and reported him to Kaiserslautern Military Community Garrison, DES-PMO, USAG Rheinland-Pfalz/KLMC, Unit 20263, APO AE 09067.

b. The DES-PMO opened an investigation without notice to his Chain of Command, or the applicant. He was allowed to permanent change of station (PCS) from Germany on 16 June 2022 to Fort Eisenhower, GA. The DES-PMO CID block titled him for the alleged offenses before he could even give his statement. He reported to his unit in GA on about 8 August 2022 and was informed by the Fort Eisenhower CID for the first time that an investigation was opened on him. He provided a statement, fingerprinted, and oral samples taken by the Fort Eisenhower CID. The investigation took months and finally closed early 2023 with a filing determination by the Post Commanding General to withdraw and destroy the case, due to no evidence, lack of credibility from the Germans, false accusations, and misinterpretations. There were no convictions, no previous criminal records, no punishment under UCMJ, or court martial. Yet He remains titled for the alleged offenses.

c. The unjust nature of his case defines it as an error since the CODIS Branch approved the expungement of his records (DNA and fingerprints) from National DNA

Index System and from the United States Army Criminal Investigation Laboratory's Offender DNA databases. In addition, he also requested record amendment from the CRC and a partial denial was decided first, then he appealed, and the appeal was also denied for the removal of titling. He has been unfairly treated from the moment the DES-PMO CID in Germany opened a case on him in 2022 till now. The error and unjust has been overwhelming, he is also a victim of racial discrimination, being undermined, and overlooked throughout his service to the nation as a Black Officer, nevertheless protecting and defending his kids from such racial emotional (toucher) comes with being a caring parent first.

d. This closed case is tagged with a low threshold title on him, which hence caused his health and service career. As a result, he was diagnosed with hypertensive heart disease which the Army has assessed him as unfit to serve and initiated a medical separation. As he is going through the medical separation, the error and unjust of his titling has so far prevented him from securing a suitable job to meet his disabled conditions. As he wishes to serve the nation in other ways, he yearns every day for some to admit their mistake of titling him prior to being proven guilty and destroying his family in many ways. Titling him for the alleged offenses he did not commit, hence no evidence proven, case withdrawn and destroyed, no punishment is unjust under a low threshold process of defining justice.

3. The applicant provides:

a. Orders 038-105, 7 February 2022 show the applicant and his family PCS'd to GA.

b. U.S. Air Force (USAF) Report of Investigation, 2 June 2022 shows a referred investigation regarding the applicant for other sexual misconduct, communicating a threat and conduct unbecoming an officer. In effect, on 1 June 2022 the investigation revealed the applicant and [REDACTED] were involved in a verbal altercation, where the applicant insulted and threatened redacted with "beatings" while flexing his arms and clenching his fists. The applicant accused [REDACTED] of racial discrimination and said, "I can tell you how we deal with that in Ghana". After the altercation the applicant proceeded to his vehicle while displaying two middle fingers, dropped his shorts down to his knees, and exposed his genitals.

c. Military Police Investigation, 8 July 2022 shows the same as above.

d. DA Form (Repost to Suspend Favorable Personnel Actions (Flag)), shows initiation of a Flag on 5 August 2022 for a Law Enforcement Investigation.

e. DA Form 4856 (Developmental Counseling), 5 August 2022 shows the applicant was counseled and a Flag was initiated.

f. CID DNA Collection, 8 August 2022 shows the collection the applicant's DNA and fingerprints. the applicant was the arrestee and charges had been preferred for communicating a threat, indecent exposure, and conduct unbecoming an officer. Applicant Sworn Statement, 8 August 2022 shows in effect, the applicant talked about the five incidents on the bus between the bus driver and his daughter. The applicant wanted to resolve the situation quickly and peacefully. "He tried to be a good man." The applicant stated when he was leaving and walking to his car, he did not at any time pull down his pants and (unable to read) his genital to the bus driver.

g. Investigator Summary, 9 August 2022, shows that on 5 August 2022 the station received a Request for assistance in reference to the applicant from Germany. His leadership was informed he needed to be flagged and set up a time to conduct an interview. The applicant was brought to the station, and he was read his rights which he waived and agreed to an interview.

h. Law Enforcement Report/Incident, 26 October 2022 shows the offense of indecent exposure indecent exposure (other sexual misconduct), communicating a threat and conduct unbecoming an officer on 1 June 2022 in Germany. Probable cause exists to believe the applicant committed the offenses of indecent exposure, conduct unbecoming of an officer and communicating a threat. There is sufficient evidence to provide to the command for consideration of action.

(1) On 1 June 2022 Investigation revealed the applicant and [REDACTED] were involved in a verbal altercation, where the applicant insulted and threatened redacted with "beatings" while flexing his arms and clenching his fists. After the altercation the applicant proceeded to his vehicle while displaying two middle fingers, dropped his shorts down to his knees, and exposed his genitals.

(2) On 8 August 2022, the applicant was advised of his legal rights which he waived and rendered a written sworn statement stating he admits to the confrontation but denies exposing himself and making threats. He was released to his unit representative.

i. Statement (Daughter), undated, in effect, the bus driver and the applicant had an argument.

j. General Officer Memorandum of Reprimand (GOMOR), 12 January 2023 shows the applicant received a GOMOR for exposing himself in public view and engaging in behavior that was inappropriate, unprofessional, unbecoming of an officer in the U.S. Army.

k. Acknowledgment of GOMOR, 23 January 2023, shows the applicant acknowledged receiving the GOMOR with the supporting investigation.

l. GOMOR Rebuttal Letter, 25 January 2023 shows the applicant saw no basis warranting an administrative reprimand. He shared his untold traumatic experiences. For instance, he was told he did not deserve to commission because he is from Africa. His battalion executive officer despised him for no reason. He is committed to performing his duty with zero tolerance to the accusations against him. The existence of discrimination and racial profiling amount to a hidden pain for years and being stationed in GE brought back the greatest emotional trauma, to my family as a whole. The altercation in GE was a wave of mistreatment and discrimination towards his daughter and family.

m. DA Form 4856, 26 January 2023 shows the applicant was counseled for Flag removal.

n. Filing Determination, 1 May 2023 shows the applicant's commander directed that his reprimand be withdrawn and destroyed.

o. CID Response Letter, 8 May 2023 shows the applicant requested removal of the titling action pertaining to the LER from the files of the CID.

p. Privacy Act Request to Change Record Form, 11 May 2023 shows the applicant requested a change in the Military Police Report and the CID Report of Investigation.

q. DD Form 4833 (Commander's Report of Disciplinary or Administration Action), 11 October 2023 shows in block 10a (Commander's Comments) the GOMOR was withdrawn and destroyed. "A review of the LER by the Office of the Chief Counsel determined, that there is no probable cause to believe the applicant committed the offense of communicating a threat and was removed from the title block for this offense. He should remain titled for the offenses of indecent exposure and conduct unbecoming an Officer."

r. CID Response Letter, 18 October 2023 shows the applicant requested further response to amend his record.

s. Memorandum, Subject: Expungement of the Applicant, 9 November 2023 shows all charges against the applicant have been dismissed, withdrawn, disposed of in a manner not resulting in referral of charges or otherwise have not or will not result in a conviction of any offense.

t. Memorandum, Subject: Appeal to Partial Denial of Request for amendment of Record, 17 November 2023 shows the applicant appealed amendment with emphasis on the concept of "Probable Cause,". The applicant appealed the partial denial of request for amendment of record.

u. CID Response Letter, 21 November 2023 shows the applicant requested response to his appeal of the denial of an amendment request. His appeal was received.

v. Memorandum, Subject: Titling Action Against the Applicant, 4 January 2024, shows despite no adverse legal or administration action taken against the applicant. Despite this, determination of the applicant remains titled for alleged offenses of indecent exposure and conduct unbecoming. Due to the lack of corroborating evidence, the English-German language barrier, and potential racial bias of the witnesses, no adverse administrative, disciplinary, judicial, or other such action was initiated against the applicant. The applicant's commanding officer requested consideration of withdrawal of titled offenses on the basis of the interest of justice.

w. Memorandum, Subject: Expungement of the Applicant, 29 January 2024 shows his brigade commander fully supported and endorsed the expungement of his DNA record. All charges against the applicant have been dismissed and disposed of in a manner resulting in NO preferral of charges or conviction of any offense.

x. Memorandum, Subject: Request for DNA, 30 January 2024 shows the applicant requested his DNA records, be expunged. He requested a directed dismissal, withdrawn and destroyed final decision of reprimand under the careful consideration of the alleged offense and circumstance.

y. CID Response Letter, 10 February 2024 shows the applicant's appeal was denied.

z. Memorandum, Subject: Expungement of the Applicant, 28 February 2024 shows the applicant's record had been expunged from the National DNA Index System and from the U.S. Army CID laboratory's offender DNA database. Additionally, the DNA sample obtain has been destroyed.

4. The applicant's service record shows:

a. DD Form 4 (Enlistment/Reenlistment Document-Armed forces of the United States) shows he enlisted in the Regular Army on 8 May 2012.

b. He was honorably discharged on 5 November 2014. His DD Form 214 (Certificate of Release form Active Duty) shows he completed 2 years, 5 months, and 28 days of active service.

c. DA Form 71 (Oath of Office-Military Personnel) shows the applicant was commissioned as a Regular Army, transportation Corps, on 6 November 2014 in the grade of second lieutenant/O-1.

d. He was honorably released from active duty on 30 June 2018. His DD Form 214 shows he completed 3 years, 7 months, and 25 days of active service.

5. CID letter, 3 October 2024, shows the enclosure of the LER Memorandum, Subject: Law Enforcement Report, 26 October 2022 (redacted) shows the offense of indecent exposure (other sexual misconduct, communicating a threat and conduct unbecoming an officer on 1 June 2022 in Germany. Probable cause exists to believe the applicant committed the offenses of indecent exposure, conduct unbecoming of an officer and communicating a threat. There is sufficient evidence to provide to the command for consideration of action.

a. On 1 June 2022 Investigation revealed the applicant and redacted were involved in a verbal altercation, where the applicant insulted and threatened redacted with "beatings" while flexing his arms and clenching his fists. After the altercation the applicant proceeded to his vehicle while displaying two middle fingers, dropped his shorts down to his knees, and exposed his genitals.

b. On 8 August 2022, the applicant was advised of his legal rights which he waived and rendered a written sworn statement stating he admits to the confrontation but denies exposing himself and making threats. He was released to his unit representative.

6. He was honorably retired on 18 October 2024. His DD Form 214 shows he was retired for disability, permanent. He completed 9 years, 11 months, and 13 days of active service.

7. The applicant submitted an additional letter, 7 November 2024 reflects he states, has never regretted standing up for his seven-year-old daughter against racial acts on foreign soil. His actions represented his daughter, their last name, and their country, against a racial incident that has negatively impacted his family. Because he never acted in any manner in the presence of his own daughter, who witnessed the entire altercation. As a father and a parent protecting his kid, why will he add more pain to what she already experiences with the racial fear impact from the local German.

a. In the past months he has continued to wonder why his military service to his country had to sadly end because of the altercation in question. Under his own lenses as a Company Commander in Germany, the United States Army Garrison, and Criminal Investigation Division entity in (Rhein Pfalz Garrison Area) to include the state-side CID and legal team entities at (Fort Eisenhower) displayed a low threshold of the legal system management towards his case. These entities have allowed the suspicious allegations against his last name and reputation to manifest and fulfilled the wish of false and lack of credibility. After all these months he has started to think maybe he is just unlucky, or he attracts racial and discrimination treatment causing him or anything related to him to be overlooked.

b. The investigation of the altercation details of the accuser's statement showed lack of credibility, inconsistency with the story, and false statements against me. Out of racial dislike, and hatred for the presence of American citizens on German soil, most U.S Soldiers overseas has experienced similar altercations.

c. As a disabled Veteran, retiree, and U.S citizen he shares this with a heavy heart that he lost trust in the way of life of the Army s Law Enforcement (CID) and related legal parties' determination of his case. The indication of lack of due diligence and due care as far as his case is concerned defines the basis of his now-permanent health issues, which cause his involuntary separation from the Army.

d. To the Army Board of Correction of Military Records (ABCMR), there is/are no evidence that he committed any of the offenses of Indecent Exposure, and Conduct Unbecoming an Officer, yet CID in Germany titled even before the investigation began, it is his word against that of the local Germans. He hopes his enclosed documents of character support letters from my former Army leaders and friends from CONUS and OCONUS, rebuttal statement and other supporting documents from the case adjudicator (Commanding General), CODIS Lab, and Deputy Chief of Police will assist the board to make a fair and just decision.

8. By regulation, (AR 15-185), the ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

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 applicant's contentions, the military record, regulatory guidance, and Department of Defense Instruction 5505.07 were carefully considered.

2. The Board determined a preponderance of the evidence shows an error or injustice did not occur when the applicant's request to be untitled for indecent exposure (other sexual misconduct) and conduct unbecoming an officer was denied by the Criminal Investigation Division (CID). The Board found that probable cause existed at the time of titling and still exists to show the offenses occurred and the applicant committed the offenses.

3. First, the Board noted the applicant received a General Officer Memorandum of Reprimand on 12 January 2023 for exposing himself in public view and engaging in behavior that was inappropriate, unprofessional, and unbecoming an officer in the U.S.

Army. Probable cause existed at the time of titling for these offenses and still exists and he should remain titled for indecent exposure and conduct unbecoming an officer. The Board noted CID partially granted his request to remove the offense of communicating a threat.

4. The Board carefully reviewed the applicant’s sworn statement, the law enforcement report, and the investigator’s summary. Additionally, the Board considered the unsigned statement of the applicant’s brigade commander in support of the applicant. The applicant does not provide evidence of a convincing nature that probable cause no longer exists and the titling action should be removed.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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.

5/12/2025

X _____

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.

REFERENCES:

1. Title 10, U.S. Code, 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. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity; it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of evidence.

3. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

4. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to ensure the best interests of both the Army and Soldiers are served by authorizing unfavorable information to be placed in, transferred within, or removed from an individual's AMHRR.

a. An administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. A memorandum of reprimand may be filed in a Soldier's OMPF only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the OMPF, the recipient's submissions are to be attached. Once filed in the OMPF, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states that once an official document has been properly filed in the OMPF, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the OMPF.

d. Paragraph 7-3c (Filing Authority to Redress Actions) states an officer who directed filing an administrative memorandum of reprimand, admonition, or censure in the AMHRR may request its revision, alteration, or removal, if evidence or information indicates the basis for the adverse action was untrue or unjust, in whole or in part. An officer who directed such a filing must provide a copy of the new evidence or information to the Department of the Army Suitability Evaluation Board to justify the request.

5. Army Regulation 600-8-104 (Army Military Human Resource Records Management) prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR. The AMHRR includes, but is not limited to the OMPF, finance-related documents, and non-service related documents deemed necessary to store by the Army.

a. Paragraph 3-6 (Authority for Filing or Removing Documents in the AMHRR Folders) provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or another authorized agency.

b. Appendix B (Documents Required for Filing in the AMHRR and/or Interactive Personnel Electronic Records Management System) shows memorandums of reprimand, censure, and admonition are filed in accordance with Army Regulation 600-37.

6. Department of Defense (DOD) Instruction 5505.07 (Titling and Indexing by DOD Law Enforcement Activities), 8 August 2023, establishes policy, assigns responsibilities, and prescribes uniform standard procedures for titling persons, corporations, and other legal entities in DOD law enforcement activity (LEA) reports and indexing them in the Defense Central Index of Investigations (DCII).

a. Public Law 106-398, section 552, and Public Law 116-283, section 545, codified as a note in Title 10, U.S. Code, section 1552, establish procedures for DOD personnel through which:

(1) covered persons titled in DOD LEA reports or indexed in the DCII may request a review of the titling or indexing decision; and

(2) covered persons titled in DOD LEA reports or indexed in the DCII may request their information be corrected in, expunged, or otherwise removed from DOD LEA reports, DCII, and related records systems, databases, or repositories maintained by, or on behalf of, DOD LEAs.

b. DOD LEAs will title subjects of criminal investigations in DOD LEA reports and index them in the DCII as soon as there is credible information that they committed a criminal offense. When there is an investigative operations security concern, indexing the subject in the DCII may be delayed until the conclusion of the investigation.

c. Titling and indexing are administrative procedures and will not imply any degree of guilt or innocence. Judicial or adverse administrative actions will not be taken based solely on the existence of a DOD LEA titling or indexing record.

d. Once the subject of a criminal investigation is indexed in the DCII, the information will remain in the DCII, even if they are found not guilty, unless the DOD LEA head or designated expungement official grants expungement in accordance with section 3.

e. Basis for Correction or Expungement. A covered person who was titled in a DOD LEA report or indexed in the DCII may submit a written request to the responsible DOD LEA head or designated expungement officials to review the inclusion of their information in the DOD LEA report; DCII; and other related records systems, databases, or repositories in accordance with Public Law 116-283, section 545.

f. Considerations.

(1) When reviewing a covered person's titling and indexing review request, the expungement official will consider the investigation information and direct that the covered person's information be corrected, expunged, or otherwise removed from the DOD LEA report, DCII, and any other record maintained in connection with the DOD LEA report when:

(a) probable cause did not or does not exist to believe that the offense for which the covered person was titled and indexed occurred, or insufficient evidence existed or exists to determine whether such offense occurred;

(b) probable cause did not or does not exist to believe that the covered person committed the offense for which they were titled and indexed, or insufficient evidence existed or exists to determine whether they committed such offense; and

(c) such other circumstances as the DOD LEA head or expungement official determines would be in the interest of justice, which may not be inconsistent with the circumstances and basis in paragraphs 3.2.a.(1) and (2).

(2) In accordance with Public Law 116-283, section 545, when determining whether such circumstances or basis applies to a covered person when correcting, expunging, or removing the information, the DOD LEA head or designated expungement official will also consider:

(a) the extent or lack of corroborating evidence against the covered person with respect to the offense;

(b) whether adverse administrative, disciplinary, judicial, or other such action was initiated against the covered person for the offense; and

(c) the type, nature, and outcome of any adverse administrative, disciplinary, judicial, or other such action taken against the covered person for the offense.

//NOTHING FOLLOWS//