

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 May 2025

DOCKET NUMBER: AR20240010597

APPLICANT REQUESTS:

- in effect, remove Criminal Investigation Division (CID) titling
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Request to Remove Titling
- Request to Change Record
- Exhibit A - DoDI 5505.07 (Titling and Indexing by Department of Defense Law Enforcement Activities)
- Exhibit B - Letter from CID
- Exhibit C - Report of Investigation 2nd Corrected Final
- There is no Exhibit D
- Exhibit E - Top Legal Officers Address Racial Disparity in Military Justice
- Exhibit F - Male Victim of Domestic Violence Pictures
- Exhibit G - Pictures, Post Military Employment Documents, Military Documents

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, in pertinent part:

- He was not arrested for assault he was only questioned
- He believes this to be race motivated
- He had only 90 days left in the Army, when the incident occurred
- There is an overall lack of physical evidence
- His response from CID to remove the titling was partially granted

- CID removed the abusive sexual contact titling but did not remove the assault titling
- CID did not consider that his DNA was not found in the pocket of the victim
- The reason his DNA is not found is because the victim lied
- He had also given the victim two counseling statements for being late to duty
- The victim received a Field Grade Article 15, 60 days after the report was filed for making false sworn statement about the case
- There was no physical evidence, pictures, videos, or DNA to prove assault
- He did not receive nonjudicial punishment from the AR 15-6 investigation
- He is a black male and the victim was a white female
- He is a male victim of domestic violence
- After he retired in July 2021, he became a Deputy Sheriff in Osceola County
- He believes he has met the burden of proof required to have the arrest expunged and/or removal of titling

3. The applicant provides and his service record shows:

- On 21 January 2000, he entered active duty in the Regular Army
- On 28 January 2020, he received nonjudicial punishment; however, it was not for assault
- On 16 September 2020, he received a General Officer Memorandum of Reprimand (GOMOR) for assault by a battery and unprofessional conduct by placing his hand inside the pocket of a junior female Soldier
- On 1 October 2020, the GOMOR issuing authority ordered the GOMOR filed in his Army Military Human Resource Record (AMHRR)
- On 30 June 2021, he was honorably transferred to U.S. Army Reserve Control Group (Retired)
- On 15 May 2024, he received a letter from CID stating his request was partially granted; CID removed him from the title block of abusive sexual contact however he would remain titled for assault
- He provides pictures of himself as an assault victim and documents showing his civilian employment as a deputy sheriff

4. On 24 April 2025, CID provided the Board with Law Enforcement Reports pertaining to the applicant. On 29 April 2025, the CID reports were provided to the applicant to allow him the opportunity to respond. On 6 May 2025, the applicant's attorney responded, stating in pertinent part:

- The applicant is an honorably retired Soldier who was wrongfully titled and indexed for simple assault
- The allegation is totally false and made by a junior Soldier who wanted out of a demanding 7-day a week quarantine detail, during the COVID-19 pandemic

- No witnesses could attest to the incident
- The Soldier's allegation was disproved by forensic testing
- The allegation is not supported by probable cause
- This is not the type of conduct that warrants criminal titling and indexing
- CID concluded, without explanation, that there is sufficient evidence to criminally title the applicant for assault
- On 16 September 2020, the applicant was issued a GOMOR for assault consummated by battery and professional conduct
- On 1 October 2020, the issuing authority permanently filed the GOMOR in his AMHRR
- On 10 February 2021, he received the Armed Forces Service Medal for his role in supporting COVID-19 Relief Operations
- The entire rebuttal and attachments are available for the Board's review

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation, including an amendment to the original LER report, the Board determined the applicant was initially properly titled for both abusive sexual conduct and assault; however, based upon the amendment and the remaining evidence, the Board concluded probable cause no longer existed and the titling action for both offenses should be removed.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by removing the applicant's name from the titling block for the offense of assault (date of offense: 7 April 2020) in any correspondence and/or the Defense Central Index of Investigations (DCII) system.

X //SIGNED//

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 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. 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.
3. 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//