

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2018-02579

XXXXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His record be corrected to reflect award of the Vietnam Service Medal (VSM).

APPLICANT'S CONTENTIONS

He served 140 days in the Vietnam theatre.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged Air Force airman first class (E-3).

AF Form 909, *Airman Performance Report* for the period 5 Feb 73 thru 8 Jun 74, Section I, *Identification Data*, block 4, *Organization, Location, and Command* indicates the applicant was assigned to XXXXX with duty at [Work-Product Work-Product]. Section VII, *Comments/Indorsements* states the applicant "is presently performing duty as a B-52 Fire Control Operator in support of the [Work-Product] commitment in Southeast Asia."

AF Form 626, *Request and Authorization for Temporary Duty (TDY) – Military*, provided by the applicant, indicates on or about 1 Apr 74 he was TDY in support of "Operation [Work-Product Work-Product]" for approximately 140 days.

For more information, see the excerpt of the applicant's record at Exhibit B.

APPLICABLE AUTHORITY

Air Force Manual 36-2806, 10 June 2019.

A15.2. Vietnam Service Medal. The VSM is awarded to any member of the U.S. Armed Forces serving in Vietnam, contiguous waters, or air space, including service in [Work-Product], [Work-Product], or their air space, on or after 4 July 1965 through 28 March 1973.

A15.2.1. To qualify for award of the VSM a member must meet one of the following qualifications:

A15.2.1.1. Be attached to or regularly serve for 1 or more days with an organization participating in or directly supporting military operations.

A15.2.1.2. Be attached to or regularly serve for 1 or more days aboard a naval vessel directly supporting military operations.

A15.2.1.3. Actually participate as a crewmember in one or more aerial flights into airspace above Vietnam and contiguous waters directly supporting military operations.

A15.2.1.4. Serve on temporary duty for 30 consecutive days or 60 nonconsecutive days in Vietnam or contiguous areas, except that time limit may be waived for personnel participating in actual combat operations.

Excerpt from Air Force Manual 36-2806 is at Exhibit G.

AIR FORCE EVALUATION

AFPC/DP3SP, recommends denying the application. Per Air Force Historical Support Division, Operation **Work-Product** is a mission, which used B-52 bombers in Southeast Asia to attack the **Work-Product** during the Vietnam conflict with inclusive dates 18 Jun 65 to 18 Aug 73. **Work-Product** **Work-Product**, was the original location of the bombers participating in Operation **Work-Product** beginning on 18 Jun 1965. In 1967, **Work-Product** **Work-Product**, **Work-Product**, was an added base for the mission to reduce crowding at **Work-Product** **Work-Product** and for the reduction of flight time to **Work-Product** targets. According to the applicant's AF Form 909 (5 Feb 73 thru 8 Jun 74), he was at **Work-Product** **Work-Product** between March 1974 and June 1974 in support of Operation **Work-Product**. The applicant's dates of service are past the award inclusive period for award of the VSM and for support of Operation **Work-Product**.

To grant relief for award of the VSM would be contrary to the criteria established by law, the Secretary of the Air Force per Air Force Manual 36-2806.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 19 Oct 20 for comment (Exhibit D), but has received no response.

ADDITIONAL AIR FORCE EVALUATION

On 24 May 21, the Board staff requested AFPC/DP3SP review their previous advisory. Specifically to determine if the performance report that closed out on 8 Jun 74 verifies eligibility for award of the VSM. In a memorandum dated 28 Jun 21, AFPC/DP3SP still recommends denying the application, indicating while it appears the applicant was at **Work-Product** **Work-Product** performing duties, the Airman Performance Report (APR) indicates the applicant was only under the supervision of the evaluator for a period of 90 days between Feb 73 and Jun 74. Although the applicant appears to have been supporting Operation **Work-Product**, documentation is absent to verify meeting the eligibility criteria of 30 consecutive or 60 non-consecutive days for award of the VSM. Additionally, the APR specifically states, "He was a volunteer for this

duty and deployed as soon as he met the minimum requirement.” Therefore, as the VSM was terminated on 28 Mar 73, this would indicate the applicant did not meet the minimum eligibility criteria.

APPLICANT’S REVIEW OF ADDITIONAL AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 28 Jun 21 and 5 Oct 21 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP3SP and finds a preponderance of the evidence does not substantiate the applicant’s contentions. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement. Therefore, the Board finds the application untimely and recommends against correcting the applicant’s records.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2018-02579 in Executive Session on 28 Jul 21 and 8 Nov 21:

- , Panel Chair
- , Panel Member
- , Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 27 Jun 18.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DP3SP, dated 12 Oct 20.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 19 Oct 20.

Exhibit E: Updated Advisory opinion, AFPC/DP3SP, dated 28 Jun 21.

Exhibit F: Notification of updated advisory, SAF/MRBC to applicant, dated 28 Jun 21.

Exhibit G: Excerpt from Air Force Manual 36-2806.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

X

Work-Product

Board Operations Manager, AFBCMR