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## UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02503

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COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

Correct his official military personnel record to reflect:

1. Foreign service in Vietnam.
2. Award of the Vietnam Service Medal (VSM).

### APPLICANT'S CONTENTIONS

He served two tours in the Republic of Vietnam (RVN) with USAF SAC MACV-SOG, with temporary duty (TDY) to Da Nang. Received Veterans Administration (VA) diagnosis on 22 Mar 21: Parkinson's Disease with severe cognitive impairment; worsening condition; memory of dates and units served with are forgotten. He had a stroke/Parkinson's neurological event on 13 Jan 22, after speaking to a VA White House Hotline agent who asked him, "Sir, exactly what did you do in Vietnam?" Five hours after speaking with this agent, he was life-flighted to UPMC Presbyterian, Pittsburgh, Pennsylvania, with a stroke/Parkinson's neurological event, resulting in a 6-day hospital stay, followed by a 10-day rehabilitation hospital stay to regain balance, use of his legs, and speech.

Multiple requests to the National Personnel Records Center (NPRC) with both congressional and White House assistance, have not produced Vietnam service records to prove his boots-on-ground. Submitted Freedom of Information Act (FOIA) requests to Defense Finance and Accounting Service (DFAS) for hostile fire and jump pay, USSOCOM for special operations records, and Department of the Air Force Personnel Center, Randolph, Texas for explanation of codes and why and how many OS bars earned--all have no records.

The FOIA office at Randolph recommended he submit a DD Form 149, *Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552*, as he and his wife have tried everything to get his Vietnam records, including letters to the Secretary of the Air Force, President Biden, and the Secretary of the Veterans Administration. The VA has failed in their duty to assist him in getting the records he needs.

He has two DD Forms 214, *Armed Forces of the United States Report of Transfer or Discharge*. Both credit him with 1 year, 11 months, 7 days foreign service, but only one copy lists the Vietnam Service Medal and OS Bars. He also has his OSI clearance document, Security Termination Statement, and Performance Evaluation list with "No Rpt 1 Yr," twice.

The applicant's complete submission is at Exhibit A.

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## STATEMENT OF FACTS

The applicant is an honorably discharged Air Force sergeant (E-4).

According to AF Form 909, *A1c, A2c, A3c, and AB Performance Report*, the applicant was issued an evaluation for the period 23 Apr 67 – 2 Feb 68, while assigned to the [Work...] Transportation Squadron, Ramey Air Force Base (AFB), Puerto Rico.

According to AF Form 910, *TSgt, SSgt, and Sgt Performance Report*, the applicant was issued an evaluation for the period 3 Feb 68 – 2 Feb 69, while assigned to the [Work...] Transportation Squadron, Ramey AFB, Puerto Rico.

According to AF Form 4, *Airman Military Record*, the applicant was assigned to the [Work...] Transportation Squadron, Ramey AFB, Puerto Rico, from 20 May 67 – 25 Apr 69.

On 26 Apr 69, the applicant was furnished an honorable discharge, and credited with 3 years, 10 months, 28 days active service, of which 1 year, 11 months, 7 days are foreign and/or sea service.

According to DD Form 214, effective 26 Apr 69, Copy 1, provided by the applicant, Block 24. *Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded and Authorized*, reflects “VSM, OS Bars, NDSM AFM 900-3, and AFGCM (29May65-28May68) AFM 900-3.”

According to DD Form 214, effective 26 Apr 69, Copy 2, provided by the applicant, Block 24. *Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded and Authorized*, reflects “NDSM AFM 900-3, and AFGCM (29May65-28May68) AFM 900-3.”

On 22 Mar 21, according to *Department of Veterans Affairs (DVA) Parkinson's Disease Disability Benefits Questionnaire*, provided by the applicant, he was diagnosed with Parkinson's Disease.

On 14 Apr 22, according to DVA Rating Decision, provided by the applicant, his request for service connection for Parkinson's Disease was denied.

On 21 Apr 22, according to Standard Form 180, *Request Pertaining to Military Records*, provided by the applicant, he requested copies of his DD Form 214, Official Military Personnel File and Medical Records for the purpose of claiming benefits after diagnosis of Parkinson's Disease; need to establish boots-on-ground in Vietnam.

On 20 Jul 22, according the NPRC letter in response to the applicant's inquiry, provided by the applicant, NPRC was unable to verify any service in Vietnam.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibits C and E.

## AIR FORCE EVALUATION

AFPC/DP3AM recommends denying the applicant's request for foreign service credit for the Republic of Vietnam. The documentation submitted and the Master Personnel Record does not contain any information that the applicant served in the Republic of Vietnam. Foreign service in Puerto Rico could be verified from 19 May 67 – 25 Apr 69.

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 25 Jan 23 for comment (Exhibit D) but has received no response.

## AIR FORCE EVALUATION

AFPC/DP3SP recommends denying the applicant's request for award of the VSM. After a thorough review of the applicant's official military personnel record and provided documentation, award of the VSM could not be verified.

In accordance with Department of the Air Force Manual (DAFMAN) 36-2806, *Military Awards: Criteria and Procedures*, 27 Oct 22:

**A15.13. Vietnam Service Medal.** The Vietnam Service Medal is awarded to any member of the U.S. Armed Forces serving in Vietnam, contiguous waters, or air space, including service in Thailand, Laos, Cambodia, or their air space, on or after 4 July 1965 through 28 March 1973.

A15.13.1. To qualify for award of the Vietnam Service Medal a member must meet one of the following qualifications (T-0):

A15.13.1.1. Be attached to or regularly serve for 1 or more days with an organization participating in or directly supporting military operations.

A15.13.1.2. Be attached to or regularly serve for 1 or more days aboard a naval vessel directly supporting military operations.

A15.13.1.3. Actually participate as a crewmember in one or more aerial flights into airspace above Vietnam and contiguous waters directly supporting military operations.

A15.13.1.4. 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.

A15.13.2. No person is entitled to more than one award of the Vietnam Service Medal.

A15.13.3. Members who qualified for the AFEM for reason of service in Vietnam between 1 July 1958 and 3 July 1965 (inclusive) remains qualified for that medal. Upon request, any such member may be awarded the Vietnam Service Medal instead of the AFEM. In such instances, the AFEM is deleted from the list of authorized medals in personnel records. No person is entitled to both awards for service in Vietnam.

A15.13.4. Service members who earned the AFEM for Operation FREQUENT WIND between 29 and 30 April 1975 may elect to receive the Vietnam Service Medal instead of the AFEM. No member may be issued both medals for service in Vietnam.

A15.13.5. Vietnam and contiguous waters, as used herein, is defined as an area which includes Vietnam and the water adjacent thereto within the following specified limits: From a point on the East Coast of Vietnam at the juncture of Vietnam with China southeastward to 21 degrees North latitude, 108 degrees; 15 degrees East longitude; thence, southward to 18 degrees; North latitude, 108 degrees; 15 degrees East longitude; thence southeastward to 17 degrees 30 degrees North latitude, 111 degrees East longitude; thence southward to 11 degrees North latitude; 111 degrees East longitude; thence southwestward to 7 degrees North latitude, 105 degrees East longitude; thence westward to 7 degrees North latitude, 103 degrees; East longitude; thence northward to 9 degrees 30 degrees North latitude, 103 degrees East longitude, thence northeastward to 10 degrees 15 degrees North latitude, 104 degrees 27 degrees East longitude;

thence northward to a point on the West Coast of Vietnam at the juncture of Vietnam with Cambodia.

Based on the applicant's official military personnel record and provided documentation, AFPC/DP3SP was unable to verify he was in the area of eligibility for an aggregate of 30 consecutive or 60 non-consecutive days for award of the VSM.

The complete advisory opinion is at Exhibit E.

## APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 5 Jul 23 for comment (Exhibit F) but has received no response.

## FINDINGS AND CONCLUSION

1. The application was not timely filed. 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 Department of the 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.

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/DP3AM and AFPC/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. Foreign service in the Republic of Vietnam could not be verified for the applicant. Consequently, he does not meet the established criteria for award of the VSM in accordance with DAFMAN 36-2806. Therefore, the Board recommends against correcting the applicant's records.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

## 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 Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-02503 in Executive Session on 12 Sep 23:

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Panel Chair  
Panel Member  
Panel Member

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All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 11 Aug 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3AM, dated 19 Jan 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 25 Jan 23.
- Exhibit E: Advisory Opinion, AFPC/DP3SP, dated 5 Jul 23.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 5 Jul 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

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