

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 August 2023

DOCKET NUMBER: AR20230001899

APPLICANT REQUESTS: his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 14 June 2003 to reflect:

- foreign service credit for his combat deployment in 2003
- Army Commendation Medal (ARCOM)
- Army Achievement Medal (AAM)
- Army Combat Patch
- Army Good Conduct Medal (AGCM)
- Overseas Service Ribbon (OSR)
- Global War on Terrorism Expeditionary Medal (GWOTEM)
- Iraq Campaign Medal (ICM)
- Armed Forces Service Medal (AFSM)
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- ARCOM Certificate dated 14 June 2003

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 he was deployed from March 2003 through August 2003 in support of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) while stationed at Fort Stewart, GA. His combat deployment and his awards were not recorded on his DD Form 214. He has earned those awards and would like the DD Form 214 corrected to reflect his awards during his honorable service. The awards include:

- ARCOM
- AAM
- “Army Combat Patch”
- AGCM
- OSR
- GWOTEM
- ICM
- AFSM

3. The applicant provides ARCOM certificate, dated 14 June 2003, Permanent Order 165-032, signed by Colonel TGT, for meritorious service during OEF and OIF as a member of the 1st Battalion, 9th Field Artillery, 3rd Infantry Division from 20 March 2003 to 1 May 2003.

4. A review of the applicant’s service record shows:

a. He enlisted in the Regular Army on 15 January 2002.

b. His DA Form 2-1 (Personnel Qualification Record) and Enlisted Record Brief are void of any foreign service duty locations. The documents did list the following:

- Army Service Ribbon
- National Defense Service Ribbon

c. His service record included ARCOM certificate, dated 14 June 2003, Permanent Order 165-032, signed by Colonel TGT, for meritorious service during OEF and OIF as a member of the 1st Battalion, 9th Field Artillery, 3rd Infantry Division from 20 March 2003 to 1 May 2003. The applicant’s service record was void of any other awards.

d. The applicant’s service record was void of nonjudicial punishment prior to his court-martial. Additionally, from the date of enlistment until the date he went AWOL there was a period of 3 years and 17 days of service without incident.

e. He was convicted by a general court-martial on 8 June 2005 for one specification of with intent to avoid hazardous duty, namely “Operation Iraqi Freedom” quitting his unit on or about 31 January 2005 and did remain so absent in desertion until on or about 1 March 2005. He was sentenced to a bad conduct discharge, confinement for one year, and reduction to the lowest enlisted grade.

f. On 6 October 2005, the convening authority approved only so much of the sentence as provides for a bad conduct discharge, confinement for 11 months, and except for that part of the sentence extending to the bad conduct discharge, ordered the sentence executed. The automatic forfeiture of all pay and allowances required by

Article 58b, UCMJ, was ordered waived for a period of 6 months, effective 22 June 2005, and directed to be paid to the spouse of the accused in support of his family member.

g. On 28 March 2006, the U.S. Army Court of Criminal Appeals on consideration of the entire record, held the findings of guilty and the sentence as approved by the convening authority correct in law and fact. Accordingly, those findings of guilty and the sentence were AFFIRMED.

h. General Court-Martial Order Number 205 dated 26 October 2006, after Article 71 (c) was complied with and the sentence was affirmed, ordered the bad conduct discharge executed.

i. Order 092-0191, dated 9 April 2007, discharged the applicant from active duty with an effective date of 6 April 2007.

j. On 6 April 2007, he was discharged from active duty with a bad conduct discharge. His DD Form 214 shows he completed 4 years, 5 months, and 2 days of active service with lost time due to AWOL and confinement. It also shows he was awarded or authorized:

- National Defense Service Medal
- Army Service Ribbon

5. On 5 July 2023, a member of the Defense Finance Accounting Services staff provided email verification to confirm the applicant deployed to Kuwait from 25 September 2002 to 9 August 2003 (10 months and 16 days).

6. The Board will not consider the applicant's request for the Army Combat Patch. Army Regulation 670-1 (Wear and Appearance of Army Uniforms and Insignia) states authorization to wear a shoulder sleeve insignia indicating former wartime service (SSI-FWTS) is reserved for individuals who were members of U.S. Army units during wartime operations. The applicant would be authorized to wear the SSI-FWTS if he was deployed in the CENTCOM area of operations, or participated in Operation Iraqi Freedom while deployed in Turkey, Israel, and Aegis cruisers. This patch is not awarded, but is earned through wartime service and is not listed on the DD Form 214.

7. A review of the applicant's service record confirms administrative entries and awards were omitted from his DD Form 214. The administrative entries and awards will be added to his DD Form 214 as administrative corrections and will not be considered by the Board. The Board will consider his request for the AAM, AGCM, OSR, GWOTEM, ICM, and AFSM.

8. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

9. By regulation (AR 600-8-22):

a. The Army Good Conduct Medal is awarded for exemplary behavior, efficiency, and fidelity in active Federal military service. It is awarded on a selective basis to each Soldier who distinguishes himself or herself from among his or her fellow Soldiers by their exemplary conduct, efficiency, and fidelity throughout a specified period of continuous enlisted active Federal military service.

b. The Armed Forces Service Medal may be awarded to members of the Armed Forces of the United States for operations for which no other U.S. campaign or service medal is approved and who, after 1 June 1992 participate or have participated as members of U.S. military units in a U.S. military operation deemed to be a significant activity and encounter no foreign armed opposition or imminent threat of hostile action.

c. The Iraq Campaign Medal is awarded to members who have served in direct support of Operation Iraqi Freedom (OIF). The area of eligibility encompasses all the land area of the country of Iraq, the contiguous water area out to 12 nautical miles, and all air spaces above the land area of Iraq and above the contiguous water area out to 12 nautical miles.

d. The Global War on Terrorism Expeditionary Medal (GWOTEM) is authorized for award to members of the Armed Forces of the United States who deployed abroad for service in Global War on Terrorism operations on or after 11 September 2001 to a date to be determined. Initial award of the GWOTEM was limited to service members deployed abroad in Operations Enduring Freedom and Iraqi Freedom in designated specific geographic areas of eligibility (AOE), including Kuwait.

10. By regulation, (AR 635-5) the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

a. Item 12f (Foreign Service) will show the total amount of foreign service performed during the period covered by block 12c (Net Active Service This Period).

b. Item 18 (Remarks), for Soldiers who deployed with his or her unit during their continuous period of active service, enter a statement "SERVICE IN (name of country deployed) FROM (inclusive dates for example, YYYYMMDD-YYYYMMDD)."

BOARD DISCUSSION:

1. The applicant’s request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant’s contentions, the military record, and regulatory guidance. Based on the period of the applicant’s service, in addition to the awards below that will be administratively corrected, the Board determined the evidence presented sufficient to warrant further correction to his record.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            GRANT FULL RELIEF

■            ■            ■            GRANT PARTIAL RELIEF

:            :            :            GRANT FORMAL HEARING

:            :            :            DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD214 for the period ending 6 April 2007 to show in block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):

- Army Good Conduct Medal
- Over Seas Ribbon
- Global War on Terrorism Expeditionary Medal

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any other relief not stated above.



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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's service records shows administrative entries were omitted and he is authorized additional awards not annotated on his DD Form 214, for the service period ending 6 April 2007. As a result, correct his DD Form 214 by adding the following:

- Block 12f (Foreign Service) – 10 months and 16 days
- Block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) – ARCOM and GWOTSM
- Block 18 (Remarks) – “Service in Kuwait from 20020925 – 20030809”

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 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.

3. Army Regulation 600-8-22 (Military Awards), in effect at the time, prescribes Army policy, criteria, and administrative instructions concerning individual military awards.

a. The Army Good Conduct Medal is awarded for exemplary behavior, efficiency, and fidelity in active Federal military service. It is awarded on a selective basis to each Soldier who distinguishes himself or herself from among his or her fellow Soldiers by their exemplary conduct, efficiency, and fidelity throughout a specified period of continuous enlisted active Federal military service, as outlined in this chapter. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of active Federal military service. Although there is no automatic entitlement to the Army Good Conduct Medal, disqualification must be justified.

b. The Armed Forces Service Medal may be awarded to members of the Armed Forces of the United States for operations for which no other U.S. campaign or service medal is approved and who, after 1 June 1992 participate or have participated as members of U.S. military units in a U.S. military operation deemed to be a significant activity and encounter no foreign armed opposition or imminent threat of hostile action. Service members must be bona fide members of a unit participating in or engaged in direct support of the operation for 30 consecutive days in the area of eligibility (or for the

full period when an operation is of less than 30 days' duration) or 60 nonconsecutive days provided this support involves entering the area of eligibility or meet the following criteria:

- While participating as a regularly assigned aircrew member, accumulates 15 days service (consecutive/nonconsecutive flying sorties into, out of, within, or over the area in direct support of the military operations
- One day's service is credited for the first sortie flown on any day. Additional sorties flown on the same day receive no further credit

c. The Iraq Campaign Medal is awarded to members who have served in direct support of Operation Iraqi Freedom (OIF). The area of eligibility encompasses all the land area of the country of Iraq, the contiguous water area out to 12 nautical miles, and all air spaces above the land area of Iraq and above the contiguous water area out to 12 nautical miles. The Iraq Campaign Medal period of eligibility is on or after 19 March 2003 through 31 December 2011. A bronze service star is authorized for wear with this medal for participation in each credited campaign. Approved campaigns are:

- Liberation of Iraq (19 March 2003-1 May 2003)
- Transition of Iraq (2 May 2003-28 June 2004)
- Iraqi Governance (29 June 2004-15 December 2005)
- National Resolution (16 December 2005-9 January 2007)
- Iraqi Surge (10 January 2007-31 December 2008)
- Iraqi Sovereignty (1 January 2009-31 August 2010)
- New Dawn (1 September 2010-31 December 2011)

d. The Global War on Terrorism Expeditionary Medal (GWOTEM) is authorized for award to members of the Armed Forces of the United States who deployed abroad for service in Global War on Terrorism operations on or after 11 September 2001 to a date to be determined. The general area of eligibility (AOE) encompasses all foreign land, water, and air spaces outside the fifty states of the United States and outside 200 nautical miles of the shores of the United States in operations approved by the Secretary of Defense. Under no conditions will units or personnel within the United States or the general region excluded above be deemed eligible for the GWOTEM. Service members must be assigned, attached, or mobilized to a unit participating in designated operations for 30 consecutive days or 60 nonconsecutive days in the AOE, or meet other, specified criteria. Initial award of the GWOTEM was limited to service members deployed abroad in Operations Enduring Freedom and Iraqi Freedom in designated specific geographic areas of eligibility (AOE), including Kuwait.

e. The Global War on Terrorism Service Medal (GWOTSM) is authorized for award to members of the Armed Forces of the United States who have participated in Global



War on Terrorism operations outside of the areas of eligibility (AOE) designated for award of the Global War on Terrorism Expeditionary Medal, Afghanistan Campaign Medal, or Iraq Campaign Medal. All Soldiers on active duty, including Reserve Component Soldiers mobilized or National Guard Soldiers activated, on or after 11 September 2001 to a date to be determined having served 30 consecutive days or 60 nonconsecutive days are authorized the GWOTSM. The GWOTSM may be awarded posthumously. Only one award of the GWOTSM may be authorized to any individual; second and subsequent awards will not be awarded.

f. The Overseas Service Ribbon was established by the Secretary of the Army on 10 April 1981. Effective 1 August 1981, all members of the Active Army, Army National Guard, and Army Reserve in an active Reserve status are eligible for the award for successful completion of overseas tours. The award may be awarded retroactively to those personnel who were credited with a normal overseas tour completion before 1 August 1981 provided, they had an Active Army status on or after 1 August 1981. Numerals are used to denote the second and subsequent awards of the Overseas Service Ribbon.

4. Army Regulation 614-30 (Overseas Service), currently in effect, prescribes policies pertinent to overseas permanent change of station moves, overseas tour lengths, overseas tour curtailments, time-on-station, eligibility for overseas service criteria, voluntary and involuntary overseas tour extension, the Overseas Tour Extension Incentive Program, and consecutive overseas tours. Soldiers who serve a minimum of 11 cumulative months (within a 24 month period) or 9 continuous months in a TCS/TDY status may receive overseas tour credit for a completed short tour.

5. Army Regulation 635-5 (Separation Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

a. Item 12f (Foreign Service) states from the Enlisted Record Brief/Officer Record Brief show the total amount of foreign service performed during the period covered by block 12c (Net Active Service This Period).

b. Item 18 (Remarks), states for active-duty Soldiers deployed with his or her unit during their continuous period of active service, enter "SERVICE IN (name of country deployed) FROM (inclusive dates for example, YYYYMMDD-YYYYMMDD)."

6. Army Regulation 670-1 (Wear and Appearance of Army Uniforms and Insignia), in effect at the time, states authorization to wear a shoulder sleeve insignia indicating

former wartime service (SSI-FWTS) applies only to soldiers who are assigned to U.S. Army units that meet all the following criteria.

- The Secretary of the Army or higher must declare as a hostile environment the theater or area of operation to which the unit is assigned, or Congress must pass a Declaration of War.
- The units must have actively participated in, or supported ground combat operations against hostile forces in which they were exposed to the threat of enemy action or fire, either directly or indirectly.
- The military operation normally must have lasted for a period of thirty (30) days or longer. An exception may be made when U.S. Army forces are engaged with a hostile force for a shorter period of time, when they meet all other criteria, and a recommendation from the general or flag officer in command is forwarded to the Chief
- The Chief of Staff, Army, must approve the authorization for wear of the shoulder sleeve insignia for former wartime service.
- Wear is reserved for individuals who were members of U.S. Army units during wartime operations, to include Operation Iraqi Freedom: from 19 March 2003 to a date to be determined, for soldiers assigned to units participating in Operation Iraqi Freedom. Soldiers must have been deployed in the CENTCOM area of operations, or participated in Operation Iraqi Freedom while deployed in Turkey, Israel, and Aegis cruisers.

//NOTHING FOLLOWS//