

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 January 2024

DOCKET NUMBER: AR20230004014

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), ending 31 October 1969, to show he was promoted to the rank/grade of sergeant (SGT)/E-5.

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

- DD Form 149 (Application for Correction of Military Record)
- Purple Heart Certificate, 29 August 1968
- Army Commendation Medal Certificate, 1 October 1969

FACTS:

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

a. While serving in Vietnam, he was notified by his Company Commander that he would go before the next promotion board in September 1968. However, before the Board convened, on 25 August 1968, he was wounded by shrapnel from a mortar attack while serving in the Vinh Long Providence base camp in the Mekong Delta. He was wounded with shrapnel in the neck, chest, and severely injured in his upper left thigh resulting in severe muscle loss. During the attack, he was medically evacuated by helicopter to the Cam Ranh Bay Army hospital and was operated on. After spending several days in the hospital and unable to walk, he was flown to Clark Air Force Base in the Philippines and then sent to Okinawa, Japan, for approximately six weeks of rehab therapy which included black box electric shock treatments to his left upper thigh in an attempt to stimulate the portion of the thigh muscle that had been removed.

b. After his rehabilitation ended, he returned to his unit in Vietnam. Upon arrival to the unit, he was advised that the promotion board had convened while he was undergoing rehab in Okinawa, and therefore, was unable to be considered for

promotion. All the military personnel that went before that promotion board and passed were awarded their promotions. He was very disappointed and was told by his Company Commander that he would go before the next promotion board which would take place several months later. When that convened, he went before the board and passed. However, he was never promoted from specialist four (SP4)/E-4 to SGT/E-5 before his enlisted time ended.

c. The only reason he was not promoted was due to injuries which occurred outside of his control. He should be promoted to the rank of SGT as he earned the promotion during his service.

3. A review of the applicant's available service record reflect the following:

a. On 6 February 1967, he enlisted in the Regular Army.

b. DA Form 20 (Enlisted Qualification Record) reflects the following:

(1) Item 31 (Foreign Service) shows service in Vietnam from 23 March 1968 to 31 October 1969, for a total of 19 months.

(2) Item 33 (Appointments and Reductions) shows:

- Private (PVT)/E-1, effective 6 February 1967
- Private (PVT)/E-2, effective 6 June 1967
- Private first class (PFC)/E-3, effective 22 August 1967
- SP4/E-4 (Temporary (T)), effective 19 June 1968

(3) Item 41 (Awards and Decorations) shows:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal with 1960 Device
- 3 Overseas Service Bars

c. On 28 August 1968, Headquarters, 29th Evacuation Hospital (SMBL) issued General Orders Number 5 awarding him the Purple Heart, at the rank of SP4 for wounds received in action while stationed in Vietnam on 25 August 1968.

d. DD Form 214, ending 31 October 1969, reflects an honorable release from active duty and transfer to the U.S. Army Reserve (USAR) Control Group (Reinforcement) with service from 6 February 1967 to 31 October 1969.

(1) Item 5a (Grade, Rate, or Rank) shows SP4 (Permanent (P))

(2) Item 22c (Foreign and/or Sea Service) shows 1 year, 7 months, and 8 days.

(3) Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) shows:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- Army Good Conduct Medal
- Army Commendation Medal
- Purple Heart

e. On 17 January 1973, the Office of the Adjutant General, U.S. Army Reserve Components Personnel and Administration Center issued Letter Orders Number 01-1014973 honorably discharging him from the USAR, effective 1 February 1973, at the rank of SP4.

4. The applicant provides the following:

a. Purple Heart Certificate dated 29 August 1968 showing he was awarded the Purple Heart for wounds received in combat on 25 August 1968 while stationed in the Republic of Vietnam at the rank of SP4/E-4.

b. Army Commendation Medal Certificate dated 1 October 1969 showing he was awarded the Army Commendation Medal for meritorious service in the Republic of Vietnam from March 1968 to October 1969 at the rank of SP4/E-4.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief not warranted. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. The Board noted the applicant's period of service, decorations and awards received and further documentation available for review. Available documentation consistently reflects the highest rank held as Specialist (E-4) as denoted on his discharge orders, DA Form 20, and letter orders and does not reveal a promotion the higher grade. After due consideration of the applicant's request, the Board determined evidence presented does not meet the burden of proof in determining the existence of an error or injustice and a recommendation for relief is not warranted.

2. 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

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BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined 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.

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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):

1. Reference the enclosed request for correction of military records from the subject individual to correct his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 31 October 1969, by amending it as follows:

a. Delete the following awards:

- Vietnam Service Medal
- Vietnam Campaign Medal

b. Adding the following awards:

- 3 Overseas Bars
- Vietnam Service Medal with one silver service star and one bronze service star
- Republic of Vietnam Campaign Medal with 1960 Device
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- DD Form 214
- Department of the Army General Orders Number 8, dated 1974
- DA Pam 672-3
- AR 600-8-22

3. Please correct the applicant's DD Form 214 by amending/adding the awards shown in paragraph 1a and b above. Provide the applicant a copy of the corrections, and as applicable the medals. Please ensure that the corrections are recorded in the applicant's official military personnel record.

REFERENCES:

1. Title 10, USC, 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 (AR) 635-5 (Separation Documents) in effect at the time prescribes the separation documents that will be furnished each individual who is separated from the Army. Source documents will consist of DA Form 20. Item 5a; enter the grade in which serving at the time of separation, indicating whether permanent or temporary.
3. AR 600-200 (Enlisted Personnel Management System) in effect at the time states in section 7-3 (Authority to promote) states pay grades E-5 and E-6. Field grade commanders of any organization which is authorized a commander in the grade of lieutenant colonel or higher may promote assigned personnel to pay grades E-5 and E-6.

//NOTHING FOLLOWS//