

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 December 2023

DOCKET NUMBER: AR20230004410

APPLICANT REQUESTS: correct his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his already-awarded Purple Heart and Army Commendation Medal (2nd Award).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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's requested relief for the addition of the Purple Heart to his DD Form 214 is supported by sufficient evidence; as a result, this portion of the requested relief will be addressed in the "ADMINISTRATIVE NOTE(S)" section and will not be considered by the Board.
3. The applicant states the Army placed him on "stop-loss," and, after he redeployed from Iraq, he reached his expiration term of service (ETS). His command mailed him his awards and this is why they are not reflected on his DD Form 214. He no longer has physical copies of the awards in question.
4. A review of the applicant's service record reveals the following:
 - a. On 21 March 2002, the applicant enlisted into the Regular Army for 3 years. Upon completion of initial entry training and the award of military occupational specialty 19D (Cavalry Scout), orders assigned him to an infantry battalion in Germany; he arrived at his new unit, on or about 19 August 2002.
 - b. On 2 February 2004, the applicant deployed to Iraq; he redeployed, on 12 February 2005.

c. On 13 May 2005, Permanent Orders (PO) awarded the applicant the Purple Heart for wounds incurred, on 30 June 2004.

d. On 31 May 2005, orders honorably released the applicant from active duty and transferred him to the U.S. Army Reserve to complete his remaining military service obligation. His DD Form 214 shows he completed 3 years, 2 months, and 10 days net active duty service. Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) lists the following:

- Combat Patch
- Army Achievement Medal
- National Defense Service Medal with one bronze service star
- Global War on Terrorism Expeditionary Medal
- Army Lapel Button
- Global War on Terrorism Service Medal
- Army Service Ribbon

c. The applicant's available service record is void of PO awarding him two Army Commendation Medals.

5. Army Regulation (AR) 600-8-22 (Military Awards), in effect at the time, stated the Army Commendation Medal may be awarded to any member of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941, distinguishes himself or herself by heroism, meritorious achievement or meritorious service. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

6. AR 15-185 (ABCMR), currently in effect, states the ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and correct, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was partially warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Permanent Orders (PO) awarded the applicant the Purple Heart for wounds incurred, on 30 June 2004. This award is not shown on his DD Form 214. The Board determined it should be.

b. The Board did not find evidence in the applicant’s service records, and he provides none to show he was recommended for or awarded two awards of the Army Commendation Medal. As with all personal decorations, award of the Army Commendation Medal requires a formal recommendation, approval through the chain of command, and announcement in orders.

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:

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 adding to the applicant’s DD Form 214 the Purple Heart.
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 the Purple Heart.

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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.

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. AR 600-8-22, in effect at the time, stated the Army Commendation Medal may be awarded to any member of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941, distinguishes himself or herself by heroism, meritorious achievement or meritorious service. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.
3. AR 15-185, currently in effect, states the ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and correct, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude there is a greater than 50-50 chance that what he/she claims is accurate.

//NOTHING FOLLOWS//