

IN THE CASE OF: ██████████

BOARD DATE: 14 December 2023

DOCKET NUMBER: AR20230005417

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) for the period ending on 15 June 1971 to reflect:

- rank as specialist (SPC)/E-4 rather than private first class (PFC)/E-3
- award of the Combat Infantryman Badge

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

- DD Form 149 (Application for Correction of Military Record)
- ALRDV Form 1-87 (Promotion to Grades E-3 and E-4), 21 January 1971
- Newspaper article

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 that his advancement to SPC was approved and should be reflected on his DD Form 214. He also notes that he should have been awarded the Combat Infantryman Badge because his unit was involved in a combat assault while he was in country.

3. A review of the applicant's available service records reflects the following:

a. On 15 September 1969, the applicant was inducted into the Army of the United States to serve as an 11B (Light Weapons Infantryman).

b. On or about 30 January 1970, the applicant was awarded the 11B Military Occupational Specialty (MOS).

c. On 21 April 1970, the applicant was advanced to PFC/E-3.

d. On or about 18 March 1971, the applicant was reassigned to the U.S. Army Pacific (USARPAC) to serve with C Company, 1st Battalion, 506th Infantry Regiment as a rifleman (11B).

e. On or about 10 June 1971, the applicant was reassigned to Fort Lewis, WA.

f. On 14 June 1971, Headquarters, U.S. Army Personnel Center issued Special Orders Number 165 relieving the applicant from active duty at the rank of PFC/E-3.

g. On 15 June 1971, the applicant was honorably released from active duty and transferred into the U.S. Army Reserve Control Group (Annual Training). DD Form 214, item 5a. (Grade, Rate or Rank) reflects "PFC"; item 5b. (Pay Grade) reflects "E-3"; item 6 (Date of Rank) reflects "21 April 1970"; item 22c. (Foreign and/or Sea Service) reflects "USARPAC – 0 years 3 months 10 days"; item 30 (Remarks) reflects service in the Republic of Vietnam (VN) from 5 March 1971 – 14 June 1971.

4. The applicant provides:

a. ALRDV Form 1-87 dated 21 January 1971, reflective of the applicant being advanced to the rank of SPC/E-4 in order to fill a vacancy within the 71T20 (Equipment Sports Clerk) MOS. MOS 11B was withdrawn in accordance with Army Regulation 600-200 (Enlisted Personnel Management), Paragraph 2-32d(4) (Verification of MOS). A request for the publication of orders was submitted.

b. Newspaper article reflective of an account of events involving the 1st Battalion, 501st Infantry Regiment in Vietnam during what is referred to as a ground attack wherein seven enemy combatants were killed. The embedded photograph contains a Soldier, identified as a member of C Company, 1st Battalion, 506th Infantry Regiment (Airmobile) moving off the landing zone following the completion of a combat assault.

5. The applicant did not provide nor does review of his available service records reflect orders advancing him to the rank of SPC/E-4 nor orders authorizing award of the Combat Infantryman Badge.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. The Board found that, while the evidence indicates the applicant had been selected for promotion to E-4, there is no evidence that the promotion was completed. In the

absence of additional evidence confirming orders were issued advancing him to E-4, the Board determined there is no basis for changing the rank on his DD Form 214.

3. The Board found insufficient evidence to confirm the applicant actively participated in ground combat during his service in Vietnam. The Board determined the available evidence does not support awarding him the Combat Infantryman Badge.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

█ █ █ DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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.

2/15/2024

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CHAIRPERSON

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. Army Regulation (AR) 600-8-22 (Military Awards), paragraph 8-6 provides for award of the Combat Infantryman Badge. This paragraph states that there are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat. Specific requirements state, in effect, that an Army enlisted Soldier must have an infantry specialty, satisfactorily perform duty while assigned or attached as a member of an infantry unit of brigade, regimental, or smaller size during any period such unit was engaged in active ground combat. A recipient must be personally present and under hostile fire while serving in an assigned infantry primary duty, in a unit actively engaged in ground combat with the enemy.
3. U.S. Army Vietnam Regulation Number 672-1 (Awards and Decorations) specifically governed award of the Combat Infantryman Badge to Army forces operating in South Vietnam. This regulation specifically stated that criteria for award of the Combat Infantryman Badge identified the men who trained, lived, and fought as an infantryman and the Combat Infantryman Badge is the unique award established to recognize the infantryman and only the infantryman for his service. Further, "the Combat Infantryman Badge is not an award for being shot at or for undergoing the hazards of day-to-day combat." This regulation also states that the Combat Infantryman Badge was authorized for award to infantry officers and to enlisted and warrant officer persons who have an infantry MOS and were satisfactorily performing duty while assigned or attached as a member of an infantry unit of brigade, regimental or smaller size during any period such unit was engaged in military operations against a hostile foreign force.
4. AR 600-200 (Enlisted Personnel Management System) chapter 7 (Promotion and Reduction) provides that Company, Troop, Battery, and separate detachment Commanders may promote assigned personnel to pay grades of E-4 and below. Promotion of enlisted personnel to the grade E-3 through E-9, appointments, grade reductions and grade restorations will be announced in routine orders. Criteria for promotion to E-4 –
 - 24 months time in service (waiverable)
 - 6 months time in grade (waiverable)
 - be in a promotable status (nonwaiverable)

Criteria waivable for promotion –

- have atleast 15 months, but less than 24 months' time in service (waivable)
- have atleast 3 months' time in grade (waivable)

5. AR 635-5 (Separation Documents) in effect at the time states, that the DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate and reflects the conditions as they existed at the time of separation. Personnel officers will prepare and authenticate DD Form 214 prior to forwarding records to the transfer facility. All available records will be used as a basis for the preparation of DD Form 214, including DA Form 20 (Enlisted Qualification Record), and orders. Item 5a./b. (Grade. Rate or Rank and Pay Grade) will reflect the Soldiers grade, rate or rank and pay grade at the end of the period of service covered by this DD Form 214.

//NOTHING FOLLOWS//