

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 September 2024

DOCKET NUMBER: AR20230006653

APPLICANT REQUESTS:

- a. Reconsideration of his previous request for award of the Combat Infantryman Badge.
- b. As a new request, consideration for award of the Combat Action Badge and in effect, the Air Medal with "V" Device.
- c. A personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Memorandum for Record, Subject: Recommendation for Award (Air Medal with M Device (sic)), 5 April 2023
- Nine memoranda, statements, and letters
- Stars and Stripes article
- Seven DD Forms 149 and 214 belonging to other Service Members
- Eight DA Forms 2823 (Sworn Statement)

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case for award of the CIB by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20080009916 on 14 August 2008.
2. The applicant states he was denied the Combat Infantryman Badge, Combat Action Badge, and Air Medal with "V" Device as their first sergeant was prejudice and harassed minority Soldiers during their deployment. During deployment, the Office of the Inspector General (IG) investigated their command; however, the Soldiers were not allowed to speak freely as they feared retaliation. They attempted to address the matter

with the California Army National Guard (CAARNG), but Sergeant First Class (SFC) L.M.B. was not willing to assist with the matter.

3. Regarding the Air Medal with "V" Device, there is no evidence the applicant was recommended or awarded the Air Medal with "V" Device in accordance with Army Regulation (AR) 600-8-22 (Military Awards). The applicant may request award of the Air Medal with 'V' Device under the process of Title USC Section 1130 (see references). Therefore, this issue will not be discussed further in these proceedings.

4. Regarding the Combat Action Badge, there is no evidence that the applicant has applied to the U.S. Army Human Resources Command (HRC) for the award of the Combat Action Badge and was denied. Therefore, this request to this Board is premature. He may request the award of the Combat Action Badge by submitting an application to HRC (see references). Therefore, this issue will not be discussed further in these proceedings.

3. The applicant provides:

a. Memorandum for Record, dated 5 April 2023, Subject: Recommendation for Award, authored by the applicant, recommends the awarding of the Air Medal with ["V] Device to the Soldiers of Headquarters and Headquarters Company (HHC) 1-185th Infantry. Further stating, HHC 1-185 Infantry deployed to Camp Bucca Iraq from September of 2006 through September of 2007. Beginning October 2006 through April 2007, 2nd Platoon, assisted by personnel from the other two HHC platoons, conducted detainee operations multiple times a week. As part of these missions, 1-185th personnel had to provide security during the air transport of detainees from Basra Air Base to Baghdad International Airport and back. Over the 7-month span, approximately 50 missions were conducted, each one escorting between 80 to over 300 detainees.

b. Nine memoranda, statements, and letters as follows:

c. Memorandum, dated 17 July 2022, Subject: Statement Regarding Denial of Combat Infantryman Badge, authored by Major (MAJ) E.E.L, former platoon leader, which attests to the company command team denying the Soldiers the submission of the Combat Infantryman Badge, the command team's prejudice and their eventual relief.

(1) Memorandum for Record, dated 18 July 2022, Subject: HHC, 1st Battalion, 185th Infantry Regiment Deployment, authored by Master Sergeant (MSG) J.R.G., details a conversation the first sergeant (1SG) was having regarding an award.

(2) Memorandum for REcord, dated 18 July 2022, authored by Sergeant First Class (SFC) (retired) J.A., states the purpose of recommending the Combat Action

Badge to the Soldiers of HHC, 1st Battalion, 185th Infantry, while assigned to the 16th Military Police Brigade. Pursuant to paragraph 3, the recommendation is based on the events that occurred on or about 26 October 2006.

(3) Memorandum for Record, dated 18 July 2022, authored by SFC (retired) J.A., states the purpose of recommending the Combat Infantryman Badge to the Soldiers of HHC, 1st Battalion, 185th Infantry, while assigned to the 16th Military Police Brigade. Pursuant to paragraph 3, the recommendation is based on the events that occurred on or about 26 October 2006.

(4) Sworn statement authored by Mr. E.F.G., who served as an Infantry Platoon Sergeant with HHC, 1-185th Infantry, recounts the events leading up to deployment and during deployment, as well as the toxic environment the Soldiers endured.

(5) Memorandum for Record, dated 18 July 2022, authored by SFC (retired) E.A.M., Subject: HHC, 1-185th Infantry Regiment deployment, discusses the denial of award during deployment to Iraq in support of Operation Iraqi Freedom.

(6) Memorandum for Record, dated 18 July 2022, authored by the applicant, discusses the denial of award during deployment, along with allegations of mistreatment by the unit first sergeant.

(7) Letter, dated 25 January 2022, written by SFC (retired) J.T., provides a detailed account of the series of events that occurred during their deployment to Iraq in 2007. It is also of the author's opinion that the constant barrage of EMR radiation is responsible for, or greatly attributed to, the applicant's current medical condition. Further noting, several members of their unit were diagnosed with various cancers shortly after returning from deployment.

(8) Letter, dated 15 May 2008, written by J.G., respectfully requests the Soldiers that served with HHC 1-185th Infantry of the California Army National Guard (CAARNG) in support of Operation Iraqi Freedom to be awarded the CIB.

d. Stars and Stripes article, which is blurry and illegible.

e. Seven DD Forms 149 and 214 belonging to Soldiers of HHC 1-185th Infantry who previously submitted applications to the Board for the award of the Combat Infantryman Badge.

f. Eight DA Forms 2823 submitted by the applicant and Soldiers of HHC 1-185th Infantry who deployed to Iraq in support of Operation Iraqi Freedom from 2005 to 2006.

3. A review of the applicant's service records show:

- a. National Guard Bureau (NGB) Form 23B (ARNG Retirement Points History Statement) shows he enlisted in the Regular Army on 6 August 1986 to 5 August 1989 with an immediate enlistment in the ARNG on 16 November 1985 with multiple reenlistments.
- b. Office of the Adjutant General Orders 131-432, 11 May 2006, reflects the applicant was ordered to active duty in support of Operation Iraqi Freedom, with a report date of 30 May 2006, for a period not to exceed 7 days. It also reflects on the second page, his Primary Military Occupational Specialty (MOS) as 88M.
- c. HRC Command Orders A-05-612085, dated 18 May 2006, reflect the applicant was ordered to active duty, with a report date of 3 June 2006, for a period of 568 days, in support of Operation Iraqi Freedom. It also reflects the applicant's MOS as 88M.
- d. His DD Form 214 reflects he was honorably released from active duty and transferred to the CAARNG on 10 October 2007. He completed 1 year, 4 months, and 8 days of active service and 5 years and 2 days of total prior active service. It also reflects the following:
 - (1) Item 8a (Last Duty Assignment and Major Command) "HHC 1-185th IN FC".
 - (2) Item 11 (Primary Specialty) 11B40 (Infantryman – 15 years 5 months).
 - (3) Item 13 (Decorations, Medals Badges, Commendations, Citations and Campaign Ribbons), shows he was awarded:
 - Army Commendation Medal
 - Army Good Conduct Medal
 - National Defense Service Medal (2d award)
 - Global War on Terrorism Service Medal
 - Iraq Campaign Medal
 - Army Service Ribbon
 - Overseas Service Ribbon
 - Armed Forces Reserve Medal w/M Device (3rd Award)
 - (4) Item 18 (Remarks): Served in a designated imminent danger pay area, Iraq from 21 September 2006 to 8 September 2007.

4. The applicant previously applied to the ABCMR and on 14 August 2008, the Board determined that after careful consideration, his request for the Combat Infantryman Badge was found to be without merit.

5. CAARNG Orders 274-1058, dated 1 October 2009, reflects he was honorably discharged from the CAARNG and assigned to the U.S. Army Reserve Control Group (The Retired Reserve), with an effective date of 15 September 2009.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The evidence of record shows the applicant held military occupational specialty (MOS) 11B (Infantryman) while serving in Iraq from 21 September 2006 to 8 September 2007. The Board majority found the witness statements provided by the applicant's unit members to be compelling and determined he met the criteria for award of the Combat Infantryman Badge. The Board minority determined there was insufficient evidence to support the applicant was engaged in enemy contact while serving in Iraq.
2. 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.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

■	:	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	■	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 10 October 2007 to show award of the Combat Infantryman Badge.

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. Army Regulation (AR) 600-8-22 (Military Awards) prescribes Department of the Army (DA) policy, criteria, and administrative instructions concerning individual and unit military awards.
 - a. Paragraph 1-14 (Time Limitation), states award recommendations must administratively enter military channels within 2 years of the act, achievement, or service to be honored; however, Title 10 (Armed Forces), United States Code (USC), section 1130 (Consideration of Proposals for Decorations not Previously Submitted in Timely Fashion: Procedures for Review) allows the Secretary of the Army to review an award proposal that would otherwise be precluded from consideration due to limitations established by law or policy.
 - b. In order to request an award under Title 10, USC, section 1130, you must submit the DA Form 638 and clearly identify the unit, the period of assignment, and the award being recommended. A narrative of the actions or period for which you are requesting recognition must accompany the DA Form 638, and the award recommendation should be supported by sworn affidavits, eyewitness statements, certificates, and related documents.
 - c. Title 10, USC, section 1130 further requires that a Member of Congress refer the award request to the Secretary of the Army, and the HRC Army Decorations Board acts on the Secretary's behalf. The Member of Congress would forward all documents to the U.S. Army Human Resources Command, ATTN: AHRC-PDP-A, Fort Knox, KY 40122-5408. Additional information is available at the HRC website:
 - d. Paragraph 8-6b states, the Combat Infantryman Badge is awarded to infantry officers and to enlisted and warrant officer persons who have an infantry military occupational specialty (MOS). On or after 18 September 2001, a Soldier must be an Army infantry or special forces officer (SSI 11B or 18) in the grade of colonel or below, or an Army enlisted Soldier or warrant officer with an infantry or special forces MOS, who has satisfactorily performed duty while assigned or attached as a member of an infantry, ranger or special forces unit of brigade, regimental, or smaller size during any period such unit was engaged in active ground combat, to close with and destroy the enemy with direct fires.
 - e. Paragraph 8-6b(5)(b) also provides, in pertinent part, that a Soldier must be personally present and under hostile fire while serving in an assigned infantry or special forces primary duty position, in a unit actively engaged in ground combat with the enemy. Improvised explosive device (IED), vehicle-borne IED (VBIED), and the like are direct fire weapons. While no fixed, qualifying distance from an explosion of these

devices can be established, a commander should consider the entirety of the combat situation when considering award of the CIB.

f. Paragraph 8-6d(2)(c) states, all ARNG requests, once endorsed, will be submitted to the Director, (ARNG–HRH–A), 111 South George Mason Drive, Arlington, VA 22204–1373 prior to being submitted to HRC.

g. Paragraph 8-8b states, the requirements for award of the CAB are branch and MOS immaterial. Assignment to a combat arms unit or a unit organized to conduct close or offensive combat operations, or performing offensive combat operations, is not required to qualify for the CAB. However, the CAB is not intended to recognize Soldiers who simply serve in a combat zone or imminent danger area. Battle participation credit alone is not sufficient; the unit must have engaged or been engaged by the enemy. The CAB may be awarded to any Soldier. Paragraph 8-8 stated specific eligibility requirements include:

- Soldier must be performing assigned duties in an area where hostile fire pay or imminent danger pay is authorized
- Soldier must be personally present and actively engaging or being engaged by the enemy, and performing satisfactorily in accordance with the prescribed rules of engagement
- Soldier must not be assigned or attached to a unit that would qualify the Soldier for the Combat Infantryman Badge/Combat Medical Badge

h. Paragraph 8-8(2)(c) states, All ARNG requests, once endorsed, will be submitted to the Director, (ARNG–HRH–A), 111 South George Mason Drive, Arlington, VA 22204–1373 prior to being submitted to HRC.

i. Paragraph 3-18 states, the Air Medal was established by Executive Order on 11 May 1942, is awarded to any person who, while serving in any capacity in or with the Army of the United States, has distinguished himself or herself by meritorious achievement while participating in aerial flight. Awards may be made for acts of heroism in connection with military operations against an armed enemy or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party, which are of a lesser degree than required for award of the Distinguished Flying Cross. Awards may be made to recognize single acts of merit or sustained operational activities against an armed enemy. The required achievement, while of lesser degree than that required for the award of the Distinguished-Flying Cross, must nevertheless have been accomplished with distinction above and beyond that normally expected.

j. Paragraph 6-5 ("V" Device) states, the "V" device is a bronze block letter, V, 1/4-

inch high with serifs at the top of the numbers. It is worn to denote participation in acts of heroism involving conflict with an armed enemy. It was originally worn only on the suspension and service ribbons of the Bronze Star Medal to denote an award made for heroism (valor). Effective 29 February 1964, the "V" device was also authorized for wear on the Air Medal and Army Commendation Medal for heroic acts or valorous deeds not warranting awards of the Distinguished Flying Cross or the Bronze Star Medal with "V" device.

k. Paragraph 6-6 ("M" Device) states, the "M" Device is a bronze letter, M, 1/4-inch high with serifs at the bottom of the numbers. It is authorized for wear on the Armed Forces Reserve Medal by members of the reserve components who are called or who volunteer and serve on active duty in support of specific U.S. Military operations or contingencies designated by the Secretary of Defense, as defined in Section 101(a) (13) of Title 10, USC. AGR members who receive orders changing their current duty status (legal authority under which they perform duty), their duty location, or assignment to support a contingency operation are also eligible for award of the "M" Device.

2. Army Regulation 15-185 (ABCMR) states ABCMR members will review all applications that are properly before them to determine the existence of an error or injustice; direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists on the record. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. 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.

//NOTHING FOLLOWS//