

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2024

DOCKET NUMBER: AR20230006769

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the Army Good Conduct Medal (AGCM) and deletion of "Excess leave 20 days from 18 September 1970 thru 28 September 1970"
- financial compensation

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 8-274 (Medical Condition – Physical Profile Record), 28 September 1970
- Certificate, 24 November 1970
- DD Form 214, 26 January 1971

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 did not receive the AGCM because his DD Form 214 stated excess leave from 18 September 1970 to 28 September 1970. On 12 September 1970, he was admitted to West Point Military Hospital with a diagnosis of malaria. He informed the admitting physician that he was to report to Fort Hood, TX that day. Unfortunately, Fort Hood was never informed. He was discharged from the hospital on 28 September 1970, and he reported to Fort Hood.
3. The applicant provides:
  - a. DA Form 8-274 dated 28 September 1970, which shows he was given a P-3 profile by the Commanding Officer, U.S. Army Hospital (USAH), U.S. Military Academy

(USMA), West Point, NY. The medical officer noted that the applicant was to report to the nearest medical facility for reevaluation of malaria.

b. A certificate from the USAH, USMA, dated 24 November 1970, which certified the applicant was admitted to the hospital on 12 September 1970 and released on 28 September 1970 because of disease. It shows convalescent leave from 18 September 1970 to 28 September 1970.

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

a. He was inducted into the Army of the United States on 26 February 1969.

b. His DD Form 20 (Enlisted Qualification Record) shows in:

- Item 33 (Appointments and Reductions): no reductions
- Item 38 (Record of Assignments): he received "excellent" conduct and efficiency ratings during his assignment with D Troop, 7th Squadron, 17th Cavalry, U.S. Army Pacific (USARPAC), Republic of Vietnam, from 21 August 1969 to 3 August 1970 and with Company C, 5th Battalion, 6th Infantry from 9 October 1970 to 25 January 1971
- Item 41 (Awards and Decorations): Does not list the AGCM
- Item 44 (Time Lost Under Section 972 (Title 10, U.S. Code and Subsequent to Normal Date Expiration of Term of Service): no entries

c. He was honorably discharged on 26 January 1971 and transferred to the U.S. Army Reserve Control Group. His DD Form 214 shows he completed 1 year, 11 months, and 1 day of active service. It shows in:

- Item 22c (Foreign and/or Sea Service): USARPAC, 1 year
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
  - National Defense Service Medal
  - Vietnam Service Medal with two bronze service stars
  - Republic of Vietnam Campaign Medal with Device (1960)
  - Combat Infantryman Badge
  - Army Commendation Medal with one oak leaf cluster
  - Expert Marksmanship Qualification Badge (M-60 machine gun)
  - Sharpshooter Marksmanship Qualification Badge (M-16 rifle)
- Item 26a (Non-pay Periods Time Lost): None
- Item 26b (Days Accrued Leave Paid): None (See 30)
- Item 30 (Remarks):

- Inclusive dates of service in Vietnam during current period of service:  
8 August 1969 – 7 August 1970
- Item 26b: Excess leave 20 days from 18 September 1970 thru  
28 September 1970 and 28 October 1970 thru 5 November 1970

5. The applicant's records do not reflect orders awarding him the Army Good Conduct Medal; nor is there any evidence of a commander's disqualification for the award. Additionally, there is no evidence of any convictions by court-martial or receipt of nonjudicial punishment under Article 15, Uniform Code of Military Justice.

6. His record indicates he was awarded or authorized additional awards that are not shown on his DD Form 214 and will be listed in the administrative notes.

#### BOARD DISCUSSION:

1. 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 record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition and available military records, the Board determined there was sufficient evidence, including his service from 26 February 1969 to 26 January 1971, a period of 1 year, 11 months, and 1 day. Based on this, the Board granted relief to correct the applicant's record to reflect award of the Army Good Conduct Medal (First Award).

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted for the applicant's request for deletion of "Excess leave 20 days from 18 September 1970 thru 28 September 1970" from item 30 (Remarks) of his DD Form 214. The Board found no error or injustice in the record and determined the applicant provided no evidence to support administrative irregularity existed. Additionally, the applicant requested financial compensation, in which the Board determined there was no basis and the request was unwarranted and denied relief.

3. Prior to closing the discussion, the Board noted and concurred with the administrative notes annotated below.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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|---|---|---|----------------------|
| : | : | : | 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 partial 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 26 January 1971 by:

- awarding him the Army Good Conduct Medal (First Award) for the qualifying period 26 February 1969 to 26 January 1971
- adding the Army Good Conduct Medal (First Award) to his DD Form 214

2. The Board further determined that 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 removing the excess leave remark and any financial compensation.

10/28/2024

X

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.

ADMINISTRATIVE NOTE(S): a review of the applicant's records show he is authorized additional awards not listed on his DD Form 214 for the period ending 26 January 1971. As a result, his DD Form 214 should be amended in item 24 (Awards) as follows:

- a. Delete the Vietnam Service Medal with two bronze service stars.
- b. Add:
  - 4 bronze service stars to his previously issued Vietnam Service Medal
  - Republic of Vietnam Gallantry Cross with Palm Unit Citation

#### 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 672-5-1 (Decorations and Awards), in effect at the time, stated the AGCM was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 26 August 1940; for the first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "unknown" for portions of the period under consideration were not

disqualifying. Service school efficiency ratings based upon academic proficiency of at least "good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

3. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Army Good Conduct Medal (AGCM) is awarded to on a selective basis to each Soldier who distinguishes himself or herself from among his or her fellow Soldiers by exemplary conduct, efficiency, and fidelity throughout a specified period of continuous enlisted active Federal military service. There is no right or entitlement to the medal until the immediate commander has approved the award and the award has been announced in permanent orders.

(1) The periods of service of qualifying service are: (1) each 3 years completed on or after 27 August 1940; (2) for the first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; (3) for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year; (4) for the first award only, upon termination of service on or after 27 June 1950 of less than 1 year when final separation was by reason of physical disability incurred in line of duty; or (5) for the first award only, for those individuals who died before completing 1 year of active Federal military service or if the death occurred in the line of duty.

(2) Throughout a qualifying period of service, the enlisted Soldier's character must have been above reproach and must meet all of the following criteria for award of the Army Good Conduct Medal as indicated in the Soldier's record: willingly complied with the demands of the military environment, been loyal and obedient to his or her superiors, faithfully supported the goals of his or her organization and the Army, and conducted himself or herself in an exemplary manner as to distinguish him or her from fellow Soldiers.

b. The Vietnam Service Medal was awarded to all service members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for 1 or more days with an organization participating in or directly supporting military operations. One bronze service star is authorized with the Vietnam Service Medal for each campaign during which a member was assigned or attached to and present for duty with a unit during the period in which it participated in combat or was under orders in the combat zone and served at a normal post of duty. The applicant participated in four campaigns during his service in Vietnam.

4. Army Regulation 635 5 (Separation Documents), in effect at the time, stated prescribed the separation documents that would be furnished each individual who was separated from the Army including active-duty training personnel and established standardized procedures for the preparation and distribution of these documents. It stated:

a. Item 30 (Remarks): This section would be used to complete entries too long for their respective blocks. When used for cross-reference, the item number must precede the continued information.

b. Item 26b: Enter the number of days for which individual was paid for accrued leave.

c. Enter inclusive dates of excess leave. Example: "Excess leave of 5 days from 5 Nov thru 9 Nov 57."

5. Department of the Army General Orders Number 8, dated 19 March 1974, awarded Headquarters, United States Military Assistance Command and its subordinate units, the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 8 February 1962 to 28 March 1973.

//NOTHING FOLLOWS//