

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2024

DOCKET NUMBER: AR20230006793

APPLICANT REQUESTS: in effect,

a. Correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 22 May 1967 to show in:

- Item 23a (Specialty Number & Title): 71H20 – Personnel Specialist
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): Silver Star and any awards authorized for his time in service

b. Correction of his military service records to show:

- he completed 12th grade and 2 years of college.
- the correct spelling of the city of his home of record (HOR) as “Hayfork.”
- the location and date his unit arrived and departed Vietnam

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant Statement
- Diploma of Graduation, State [REDACTED], 31 May 1961
- DA Form 20 (Enlisted Qualification Record), Page 1
- DD form 214, 22 May 1967
- High School Diploma, June 1975
- Correspondence from U.S. Senator and Privacy Release, 2 August 2023

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:

a. He was told that he was recommended for the Silver Star for trying to save two men on an armored personnel carrier (APC) on 4 April 1966, in the Ho Bo Woods, Cu Chi Vietnam, during an ambush when they took a direct hit from a rocket-propelled grenade. Of the seven men on board, two died. He tried to save the two men, but failed, resulting in his burns being more extensive than they should have been. An officer at Brooke Army Medical Center, Fort Sam Houston, TX, told him that he had been recommended for the Silver Star. He never heard anything more about the recommendation.

b. As he recalls, he arrived in Hawaii on or about March 1965 and immediately he was assigned as a 71H with Headquarters and Headquarters Company (HHC), 1st Battalion, 5th Infantry, 25th Infantry Division, where he remained until 4 April 1966 when he was blown up in a M113 APC in the Ho Bo Woods, Cu Chi Vietnam.

c. It has been 57 years since he was injured in Ho Bo Wood, Cu Chi, South Korea, and he will be 77 years old in a few months. While serving in Vietnam he was exposed to agent orange and sustained various injuries; from post-traumatic stress disorder (PTSD) to the loss of a limb, neuropathy of the feet, and later in life because of this, a heart attack, hearing loss, and more. He has tried for over 40 years to get his records updated and corrected with the medals, decorations, and citations that both he and his units received during and after Vietnam. Each time he tried to obtain these updates, he failed.

3. The applicant's military records are not available for review. However, there are sufficient documents to conduct a fair and impartial review of this case.

4. The applicant provides the following:

a. His high school diploma dated 31 May 1961 and a copy dated June 1975.

b. Page 1 of his DA Form 20, which shows in:

- Item 11 (Enlisted, Inducted, Reenlisted, Extended, and/or OAD): Army of the United States, 2 December 1964
- Item 22 (Military Occupational Specialties (MOS)):
 - Primary MOS – 11B20, Light Weapons Infantryman, 19 April 1965
 - Secondary MOS – 71H20, Personnel Specialist, 17 December 1965

c. He was honorably retired on 22 May 1967. His DD Form 214 shows in:

- Item 10c (Date Inducted): 2 December 1964
- Item 11a (Type of Transfer or Discharge): Retired
- Item 11b (Station or Installation at Which Effected): Brooke General Hospital, Fort Sam Houston, TX
- Item 11c (Reason and Authority): Title 10 USC, Section 1201, SPN 271 – Placed on Permanent Disability Retired List
- Item 12 (Last Duty Assignment and Major Command): HHC, 1st Battalion, 5th Infantry – Vietnam
- Item 21 (HOR at Time of Entry into Active Service): Hayfork, CA
- Item 22a (Net Service This Period): 2 years, 5 months, and 21 days
- Item 22c (Foreign and/or Sea Service): Vietnam, 10 months and 25 days
- Item 23a (Specialty Number & Title): 11B20 – Light Weapons Infantryman
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
 - Purple Heart
 - Republic of Vietnam Campaign Medal with device 1960
 - Vietnam Service Medal with one bronze service star
 - National Defense Service Medal
 - Combat Infantryman Badge
 - Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)
- Item 30 (Remarks): Completed 12 years schooling.

d. Correspondence from U.S. Senator [REDACTED] dated 2 August 2023, requesting information concerning the applicant's case.

5. A review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders issued during the Vietnam era, maintained by the U.S. Army Human Resources Command, failed to reveal any orders that show the applicant was awarded the Silver Star.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that relief was not 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.

2. Upon review of the applicant's petition and available military records, the Board determined his record is absent orders or evidence that shows he was awarded the military occupational specialty (MOS) 71H (Personnel Specialist). Additionally, his assignment history does not show he served in the duty MOS of 71H, but 11B (Infantryman).
3. Upon review of the applicant's petition and available military records, the Board determined his record is absent orders or documentation awarding him the Silver Star or any additional awards not annotated in the administrative notes below.
4. Upon review of the applicant's petition and available military records, the Board determined his record accurately reflects he completed his 12th year of schooling. Additionally, his record does not contain any documentation or evidence and the applicant does not provide any evidence to support he complete 2 years of college.
5. Upon review of the applicant's petition and available military records, the Board determined his separation document accurately reflects the proper spelling of his home of record as "Hayfork." The Board noted the applicant did not specifically identify a different document in his service record that may be improperly spelled.
6. A review of the applicant's available service records does not contain and therefore the Board was not able to identify the inclusive dates of the applicant's arrival and departure dates to and from Vietnam.

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.

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): administratively correct the applicant's DD Form 214 for the period ending 22 May 1967 without action by the Board to add the 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 600-8-22 (Military Awards) prescribes policies and procedures for military awards.

a. The Silver Star is awarded to a person who, while serving in any capacity with the U.S. Army, is cited for gallantry in action against an enemy of the United States while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in armed conflict against an opposing armed force in which the United States is not a belligerent party. The required gallantry, while of a lesser degree than that required for the Distinguished Service Cross, must nevertheless have been performed with marked distinction. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

b. The Army Good Conduct Medal 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.

3. Department of the Army General Order Number 8, dated 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.

4. Title 10 of the U.S. Code, section 1130 (10 USC 1130), provides the legal authority for consideration of proposals for decorations not previously submitted in a timely fashion. Upon the request of a Member of Congress, the Secretary concerned shall review a proposal for the award of or upgrading of a decoration. Based upon such review, the Secretary shall determine the merits of approving the award.

a. The request, with a DA Form 638 (Recommendation for Award), must be submitted through a Member of Congress to: Commander, U.S. Army Human Resources Command, ATTN: AHRC-PDP-A, 1600 Spearhead Division Avenue, Fort Knox, KY 40122. The unit must be clearly identified, along with the period of assignment and the recommended award. A narrative of the actions or period for which recognition is being requested must accompany the DA Form 638.

b. Requests should be supported by sworn affidavits, eyewitness statements, certificates, and related documents. Supporting evidence is best provided by commanders, leaders, and fellow Soldiers who had personal knowledge of the facts relative to the request. The burden and costs for researching and assembling supporting documentation rest with the applicant.

5. Army Regulation 635-5 (Personnel Separation - Separation Documents), in effect at the time, established standardized procedures for the preparation and distribution of separation documents. It established standardized policy for the preparation of the DD Form 214. It stated for Item 23a (Specialty Number & Title), enter primary MOS code number, title, and date of award.

6. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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//