

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 February 2024

DOCKET NUMBER: AR20230007108

APPLICANT REQUESTS: reconsideration of his previous requests for correction of his record to show he was awarded a retirement pay increase of 10 percent for award of the Soldier's Medal for extraordinary heroism retroactive to 1 December 1989.

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) service ending 30 November 1989
- Soldier's Medal Certificate with citation
- Privacy Release Form
- E-mail to Congressional office
- Record of Proceedings for Army Board for Correction of Military Records (ABCMR) Docket Number AR20180016823

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20180016823 on 21 June 2019. The Board reviewed and discussed the citation for his award, the requirement for the degree of heroism rising to that of a Distinguished Service Cross and the policy for awarding additional retired pay. The Board appreciates the applicant's heroic actions but determined that they did not rise to the level required for the addition to his retired pay.

2. The applicant states in effect, Title 10 United States Code (USC), section 3991, chapter 371 states a member who is retired under section 3914 states that a member credited by the Secretary of the Army with extraordinary heroism in the line of duty shall receive a 10 percent increase in retired pay. The Secretary's determination as to extraordinary heroism is conclusive for all purposes. He was not aware he qualified for additional retirement pay until a friend asked him if he was receiving it.

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

a. With prior Army National Guard service, the applicant's DD Form 214 shows he enlisted in the Regular Army on 21 June 1978.

b. On 22 November 1978, the Army Decorations Board convened, considered and approved the applicant for award of the Soldier's Medal for heroism; however, he was not approved for a 10 percent increase in retired pay.

c. On 7 March 1979, General Orders Number 5, by the order of the Secretary of the Army, the applicant was awarded the Soldier's Medal for heroism not involving actual conflict with an enemy on 4 June 1978.

d. The applicant was honorably retired from active duty on 30 November 1989 and assigned to the U.S. Army Reserve Control Group (Retired Reserve). DD Form 214 shows the applicant completed 11-years, 5-months, and 10-days of active service. It also shows in Item 18 (Remarks) the applicant was awarded the Soldier's Medal.

4. The applicant provides:

a. The Soldier's Medal certificate shows on 29 November 1978 the applicant was awarded the medal for heroism which occurred on 4 June 1978. The accompanying citation states "the applicant distinguished himself by extraordinary heroism on 4 June 1978. At great risk to his own life, he pulled a German national from the blazing wreckage of an automobile after it left the highway and crashed into a concrete pillar. He reached into the burning car immediately after the crash, attempted to free a lady from the blazing auto. He was driven back once by an exploding gasoline tank, he returned to pull her from the wreckage saving her life."

b. Privacy release form from a Congressional office which stated the applicant had attempted for over 3-years to get an increase of 10 percent in his retirement pay for his extraordinary heroism in the line of duty. He had applied to the ABCMR but was denied twice and was ignored twice by the Secretary of the Army. The regulation states his retirement pay shall be increased by 10 percent for extraordinary heroism at great risk to his own life. He requested the Congressional office to assist him in getting his retirement pay increased retroactive to 1 December 1989.

c. E-mail sent to the Congressional office on 4 April 2023 which stated the constituent (the applicant) needed to complete a DD Form 149 and provide supporting documentation to his request so a new inquiry could be initiated.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence to support the applicant's contentions for reconsideration that awarded him a retirement pay increase of 10 percent for award of the Soldier's Medal for extraordinary heroism retroactive to 1 December 1989. The Board notes, despite the applicant's heroic actions, the final decision may be credited by the Secretary of the Army with extraordinary heroism if it is determined that the heroism was equivalent to that required for award of the Distinguished Service Cross. The Board noted based on regulatory guidance, each case appearing to warrant Secretarial determination of extraordinary heroism will be submitted to Headquarters Department of the Army for determination of such entitlement. Based on this, the Board determined reversal of the previous Board decision is without merit and denied relief.

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:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20180016823 on 21 June 2019.

3/4/2024

X [REDACTED]

CHAIRPERSON
[REDACTED]

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) 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, sets policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance. Paragraph 12-4c, in effect at the time states, an enlisted member who has been awarded the Soldier's Medal may be credited by the Secretary of the Army with extraordinary heroism if it is determined that the heroism was equivalent to that required for award of the Distinguished Service Cross. Each case appearing to warrant Secretarial determination of extraordinary heroism will be submitted to Headquarters Department of the Army for determination of such entitlement.
2. Title 10 USC, section 3991 states, if a member who is retired under section 3914 of this title has been credited by the Secretary of the Army with extraordinary heroism in the line of duty, the members' retired pay shall be increased by 10 percent. The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

//NOTHING FOLLOWS//