

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 February 2024

DOCKET NUMBER: AR20230007732

APPLICANT REQUESTS: correction of is DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 28 November 1969 to show award of the:

- Combat Infantryman Badge (CIB)
- Army Good Conduct Medal (AGCM)
- Purple Heart (PH)

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 8-118 (Medical Board Proceedings), 6 October 1969

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 Board will not consider the applicant's request for award of the PH. The applicant's records show he was issued a DD Form 215 (Correction to DD Form 214) on 5 January 1982, which shows he was awarded the PH.
3. The Board will consider his request for award of the CIB and AGCM.
4. The applicant states, in effect, he served honorably in the U.S. Army and earned the requested awards. He was wounded by a mortar in Vietnam on 19 January 1968. Due to his wounds, he was medically discharged from the Army.
5. The applicant provides a copy of his medical board proceedings, dated 6 October 1969, which shows he was found to be medically unfit for further military service. It lists the following medical conditions/physical defects:

- Causalgia, secondary to sciatic nerve injury sustained when he was hit by mortar fragments during a hostile forces mortar attack on 19 January 1968 in the Republic of Vietnam.
- Cicatrix, abdomen, secondary to multiple fragment wounds or abdomen with multiple bowel perforations

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

a. He enlisted in the Regular Army on 8 February 1967. He completed training and was awarded military occupational specialty (MOS) 11C, Infantry Indirect Fire Crewman.

b. The applicant's DA Form 20 (Enlisted Qualification Record) contains the following information:

- Item 22 (MOS) – 11C, Infantry Indirect Fire Crewman
- Item 31 (Foreign Service) shows service in the U.S. Army Pacific - Vietnam (USARPAC) from 16 July 1967 to 11 February 1968
- Item 38 (Record of Assignments) shows during his service in Vietnam he was assigned to Company B and Company D, 2nd Battalion, 14th Infantry as an 11C with principal duty as an Ammo Bearer
- Item 38 also shows his conduct and efficiency ratings were excellent except while in a patient status, it reflects unknown
- Item 40 (Wounds) list fragment wounds: buttocks, 19 January 1968
- Item 41 (Awards and Decorations) does not list the CIB or AGCM

c. DA Form 20B (Insert Sheet to DA For 20 – Record of Court-Martial Conviction), shows by Special Court-Martial Number 53, issued by Headquarters, 501st Supply and Transport Battalion, the applicant was found guilty on 30 November 1968 of committing an assault upon private B by striking him with a hammer. He was sentenced to "h/1 w/o" confinement for one month and to forfeiture of \$41.00 per month for one month.

d. General Orders Number 3, issued by Headquarters, 45th Surgical Hospital, dated 25 January 1968 shows the applicant was awarded the PH for wounds received in connection with military operations against a hostile force, on 19 January 1968, while assigned to D Company, 2nd Battalion, 14th Infantry.

e. On 28 November 1969, he was honorably retired and placed on the temporary disability retired list (TDRL). His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-40 (Personnel Separations – Physical Evaluation for Retention, Retirement or Separation), by reason of temporary physical disability; 50% disability. It also shows in:

- Item 22a (1) (Net Service This Period): 2 years, 9 months, and 21 days
- Item 22c (Foreign and/or Sea Service): Vietnam, 6 months and 26 days
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
 - National Defense Service Medal
 - Republic of Vietnam Campaign Medal with Device (1960)
 - Vietnam Service Medal
 - Expert Marksmanship Qualification Badge with rifle bar (M-14)
 - Expert Marksmanship Qualification Badge with pistol bar (45 caliber)
 - Second Class Gunner (81 mm mortar)
 - 1 overseas bar

7. Letter Orders Number D3-290, issued by the Army Military Personnel Center, Alexandria, VA dated 18 March 1975, shows the applicant was determined to be permanently unfit for duty by reason of physical disability. He was removed from the Temporary Disability Retired List on 28 November 1974 and on 29 November 1974 he was permanently retired in the rank/grade of specialist-4 (SP4)/E-4, with 40% disability.

8. On 5 January 1982, the applicant was issued a DD Form 215 which shows his name was corrected and the PH was added to item 24 of his DD Form 214.

9. The applicant's service record does not contain, and the applicant does not provide orders awarding him the CIB.

10. The applicant's service record is void of orders awarding him the AGCM for the period 8 February 1967 through 28 November 1969.

11. The applicant's records indicate 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:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was partially warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. CIB: Grant. The evidence of record shows the applicant held an infantry MOS and was assigned to an infantry unit of company size in Vietnam. Additionally, he was wounded in Vietnam when he was hit by mortar fragments during a hostile forces mortar attack on 19 January 1968, while assigned to his infantry unit. The Board found it reasonable to believe the infantry unit engaged the enemy during this attack, and since

the applicant was wounded, he was clearly present while his unit engaged the enemy. The Board determined he meets the criteria for award of the Combat Infantryman Badge.

b. Army Good Conduct Medal: Deny. The evidence of record shows the applicant completed 2 years, 9 months, and 21 days, and he received excellent conduct and efficiency ratings during his military service (except for unknown ratings while in a patient status). However, the applicant was also convicted by a special court-martial and was found guilty of committing an assault upon another Soldier. Such derogatory information disqualifies the applicant from receiving the Army Good Conduct Medal.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the corrections addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

awarding him the Combat Infantryman Badge for being actively engaged in ground combat with the enemy on 19 January 1968 in Vietnam
 adding award of the Combat Infantryman Badge to his DD Form 214

2. The Board further determined 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 awarding him the Army Good Conduct Medal.



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 28 November 1969. As a result, his DD Form 214 should be amended in item 24 (Awards) as follows:

- a. Delete the Vietnam Service Medal
- b. Add:
 - Vietnam Service Medal with two bronze service stars
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Republic of Vietnam Civil Actions Honor Medal, First Class 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 Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. 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.

b. The CIB is awarded to infantry or special forces officers and enlisted and warrant officer persons who have an infantry or special forces military occupational specialties (MOS). They must have served in active ground combat while assigned or attached to an infantry, ranger, or special forces unit of brigade, regimental, or smaller size. Specifically, a recipient must be personally present and under hostile fire while serving in an assigned infantry or special forces primary duty in a unit actively engaged in ground combat with the enemy. The unit in question must be a brigade, regiment, or smaller size. For example, personnel possessing an infantry military occupational

specialty in a rifle squad of a cavalry platoon in a cavalry troop would be eligible for award of the CIB. Battle or campaign participation credit alone is not sufficient; the unit must have been in active ground combat with the enemy during the period. Personnel with other than an infantry or special forces military occupational specialties are not eligible, regardless of the circumstances.

c. 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. One silver service star is worn to denote five bronze service stars. The applicant participated in two campaigns during his service in Vietnam.

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam.

a. 2nd Battalion, 14th Infantry was cited for the Republic of Vietnam Gallantry Cross with Palm Unit Citation by order of the Department of the Army General Order (DAGO) Number 48, dated 1971, for the period April 1966 to August 1968.

b. 2nd Battalion, 14th Infantry was cited for the Republic of Vietnam Civil Actions Honor Medal by order of DAGO Number 15, dated 1971, for the period 20 April 1966 to 21 January 1970.

//NOTHING FOLLOWS//