

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 November 2024

DOCKET NUMBER: AR20230008061

APPLICANT REQUESTS:

- award of the Air Assault Badge
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), for the period ending 3 September 1968
- DD Form 215 (Correction to DD Form 214), 3 April 2008
- Applicant letter AR20210015322, 23 May 2022
- Two letters issued by U.S. Army Human Resources Command (HRC), 19 October 2022 and 3 February 2023
- Applicant's response to HRC, 28 December 2022

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 has submitted his request to HRC, as previously instructed by ABCMR, but his application was denied twice. The air assault training program did not exist at the time, therefore the participation of the Soldiers who performed air assault duties in Vietnam would have been impossible. He does believe the denial of his request by HRC is both in error and is an injustice, by granting his request it will recognize the extraordinary contributions made by him and the Soldiers who served with him.

3. In regard to the applicant's request of the Air Assault Badge for other veterans, Army Regulation 15-185 (ABCMR), states an applicant with a proper interest may request

correction of another person's military records when that person is incapable of acting on his or her own behalf, missing, or deceased. Depending on the circumstances, a child, spouse, parent, or other close relative, heir, or legal representative (such as a guardian or executor) of the Soldier or former Soldier may be able to demonstrate a proper interest. Applicants must send proof of proper interest with the application when requesting correction of another person's military records. Since the applicant did not demonstrate proper interest to a specific service member, this issue will no longer be discussed in these proceedings.

4. The applicant provides:

a. In a letter issued by HRC, 9 October 2022, shows the applicant was advised that the Air Assault Badge is awarded for the completion of an air assault training course after April 1, 1974. In this regard, retroactive awards of the Air Assault Badge prior to 1974 were not authorized.

b. In the applicant's response to HRC, 28 December 2022, he explains that his request was for an exception to policy for the retroactive authorization of the Air Assault Badge. He understood that the authority to approve this waiver might not be within HRC, so he further requested that his application be forwarded and processed by the proper approving authority that could grant him relief.

c. In a second letter issued by HRC, 3 February 2023, shows HRC was unable to facilitate his request, as Army Regulation 600-8-22 (Military Awards) paragraph 8-18 does not allow for retroactive issuance of this badge to Soldiers who do not meet the criteria (i.e. Soldiers who have not completed an air assault training course according to the Army Training Doctrine and Command (TRADOC) standardized Air Assault Core Program of Instruction). As such, the Awards and Decorations Branch does not have authorization to process a waiver to approve retroactive awards of the Air Assault Badge as he requested.

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

a. He enlisted in the Regular Army on 1 November 1965.

b. His DD Form 214 shows he was honorably released from active duty on 3 September 1968 and was transferred to the U.S. Army Reserve (USAR). He completed 2 years, 10 months, and 2 days of active service, and 11 months and 27 days of foreign service (U.S. Army Pacific (USARPAC)). He was awarded or authorized:

- Purple Heart
- National Defense Service Medal

- Combat Infantryman Badge
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal
- Parachutist Badge

c. His DD Form 215, amended on 3 April 2008, shows the following corrections:

(1) Item 5a (Grade, Rate or Rank): sergeant (SGT) (T).

(2) Item 5b (Pay Grade): E-5.

(3) Item 6 (Date of Rank): 1 March 1968.

(4) Item 24 (Awards) add: Air Medal, Army Good Conduct Medal, Vietnam Service Medal with three bronze service stars, Republic of Vietnam Gallantry Cross with Palm Unit Citation, Presidential Unit Citation, Meritorious Unit Commendation, Expert Qualification Badge with Rifle Bar, National Defense Service Medal.

(5) Item 30 (Remarks): Service in Vietnam from 1 April 1967 to 24 March 1968.

6. In a previous ABCMR application AR20210015322, 23 May 2022, wherein the applicant requested the Air Assault Badge due to his participation in combat air assault missions during his service in Vietnam. Since there was no evidence that he submitted his request to HRC, his application was returned without action taken by the Board and he was further advised he must first exhaust all administrative remedies to correct the alleged error or injustice.

7. Army Regulation 15-185 (Army Board for Correction of Military Records), currently in effect, states an applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

BOARD DISCUSSION:

1. 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 review based on law, policy, and regulation. The Board concluded the applicant did not meet the requirement to be awarded the Air Assault Badge and therefore denied relief.

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 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.



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. Title 10 (Armed Forces), 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. The basic eligibility criteria for the Air Assault Badge consists of satisfactory completion of an air assault training course according to the TRADOC standardized Air Assault Core Program of Instruction. Commanders of divisions and separate brigades operating Air Assault Courses in accordance with TRADOC standardized Air Assault Core Program of Instruction are authorized to award the Air Assault badge.
3. Army Regulation 15-185 (Army Board for Correction of Military Records), currently in effect, 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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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//