

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 March 2024

DOCKET NUMBER: AR20230008232

APPLICANT REQUESTS: an appearance before the Board via video/telephone, and correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show award of the Combat Infantryman Badge (CIB).

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

DD Form 149 (Application for Correction of Military Record)

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 earned and was presented the CIB upon discharge, but it was never recorded on his DD Form 214 or DD Form 215 (Correction to the DD Form 214). He did not know until his service officer informed him that it was not on his DD Form 214 or DD Form 215. He served in Vietnam with Company B, 4th Battalion, 3rd Regiment, 23rd Infantry Division. He believes his files were destroyed in the 1973 fire.
3. The applicant's available records include a Record of Induction, DA Form 20 (Enlisted Qualification Record), DD Form 214, and a DD Form 215.
4. The DD Form 20 shows the applicant:
 - was inducted into the Army of the United States on 4 February 1969
 - award of the military occupational specialty 11B (Light Weapons Infantryman)
 - his highest grade held was E-5
 - service in Vietnam with Company B, 4th Battalion, 3rd Regiment from 14 January 1970 through 13 January 1971
 - award of the:

- Army Commendation Medal with 1 oak leaf cluster
- National Defense Service Medal
- Vietnam Service Medal
- Sharpshooter Qualification Badge with Rifle Bar (M-14)
- Marksman Qualification Badge with Machine Gun Bar

5. The DD Form 214 shows the applicant was released from active duty on 7 December 1970, in the pay grade of E-5. He was discharged under the provisions of Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), Chapter 5 as an overseas returnee and his service characterization was honorable. He was credited with 1 year, 8 months, and 4 days of net active service. He is shown to have had service in Vietnam for 10 months and 23 days from 14 January 1970 through 6 December 1970. His DD Form 214 and subsequently issued DD Form 215 show he was awarded or authorized the:

- Bronze Star Medal
- Army Commendation Medal with 1 oak leaf cluster
- Army Good Conduct Medal
- National Defense Service Medal
- Vietnam Service Medal with three bronze service stars
- Republic of Vietnam Campaign Medal with Device (1960)
- Republic Of Vietnam Gallantry Cross with Palm Unit Citation Badge
- Marksman Qualification Badge with Machine Gun Bar
- Sharpshooter Qualification Badge with Rifle Bar (M-14)
- Marksman Qualification Badge with Rifle Bar (M-16)

7. There are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The applicant's request for a personal appearance hearing was carefully considered. However, in this case, the evidence of record and independent evidence provided by the applicant 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.
3. The evidence available to the Board did not provide sufficient evidence to show the applicant fulfilled all the regulatory requirements necessary for award of the Combat Infantryman Badge, in that there no evidence showing his unit was engaged in active ground combat, and that that applicant actively participated in such ground combat with his unit.

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 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.

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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, 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 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. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, 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.
3. Army Regulation 600-8-22 (Military Awards) states there are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat.

//NOTHING FOLLOWS//