

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 March 2024

DOCKET NUMBER: AR20230008415

APPLICANT REQUESTS, in effect, to update to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 10 May 1971, to show he was awarded the Army Commendation Medal (ARCOM).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record), dated 29 April 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, in effect, that he wants to have the ARCOM added to his DD Form 214 for the period ending 10 May 1971.
3. The applicant's service record is incomplete. However, the applicant's service record does reflect the following:
 - a. His DD Form 4 (Enlistment Contract-Armed Forces of the United States) shows he enlisted in Texas Army National Guard (TXARNG) on 7 July 1968, for six years.
 - b. Special Orders number 162, dated 13 August 1968 reflects he was ordered to active duty for training (ADT) for a period of 21 weeks or upon completion of MOS.
 - c. His DD Form 214 shows he entered active-duty 24 September 1968, completed training for MOS 11E10, and was honorably released back to the TXARNG on 9 February 1969. He completed 4 months, and 16 days of net service this period. This document does not reflect the award of the ARCOM.
 - d. Special Orders number 227 dated 25 November 1969 show he was involuntarily ordered to active duty with a report date of 28 December 1969.

e. His DA Form 20 (Enlisted Qualification Record) shows:

- item 31 (Foreign Service): 15 February 1971 through 14 February 1972 U.S. Army Pacific (USARPAC)-Vietnam
- item 33 (Appointments and Reductions): only promotions, no record of reduction
- item 38 (Record of Assignment): Conduct and Efficiency rating are all excellent, except for one entry of “poor” from 26 October 1969 to 27 December 1969
- item 38 (cont.): Organization and Station or Theatre, on 25 February 1971 he was assigned to Headquarters and Headquarters Company, 1st Battalion, 77th Armor, 1st Brigade, 5th Infantry Division (Mobile (M)) on 5 March 1971 he was reassigned to D Company, 1st Battalion, 77th Armor, 1st Brigade, 5th infantry Division (M)
- Item 41 (Awards and Decorations): National Defense Service Medal (NDSM), Vietnam Service Medal (VSM)

f. His DD Form 214 reflects he was honorably released from active duty and returned to State Control as a member of the TXARNG on 10 May 1971. He completed 1 year, 4 months, and 12 days of net service during this period. This document does not reflect the ARCOM. However, this document does reflect the following information:

- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaigns): National Defense Service Medal (NDSM), Vietnam Service Medal (VSM), Vietnam Campaign Medal (VCM)
- item 30 (Remarks): “RVN 15Feb71 – 9May71”

g. His NGB Form 22 (National Guard Bureau Report of Separation and Record of Service) shows he was honorably discharged from the ARNG on 28 December 1969 due to an Involuntary Order to Active Duty. His length of service completed during this period was 1 year, 5 months, and 22 days. This document does not reflect the ARCOM.

h. He was issued a DD form 215 (Correction to DD Form 214) on 28 March 1972 which amended his DD Form 214 for the period ending on 10 May 1971, transferring him to the U. S. Army Reserves (USAR) Control Group, Reinforcements; however, it did not award him the ARCOM.

i. Letter Orders Number 06-1217621 dated 19 June 1974 show he was honorably discharged from the USAR at his expiration of term of service on 1 July 1974.

j. His service record does not reflect, and the applicant does not provide orders that show he was recommended for and/or awarded the ARCOM during any time during his military service.

k. A review of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any orders of an ARCOM pertaining to the applicant.

l. The applicant is eligible for additional awards not listed on his DD Form 214 for the period ending 10 May 1971. These awards will be addressed in the "Administrative Notes" of these proceedings.

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. The applicant served on active duty from 29 December 1969 to 10 May 1971, including service in Vietnam from 15 February to 9 May 1971.

a. Although not specifically requested by the applicant, the Board noted that the evidence shows the applicant served on active duty from 9 December 1969 to 10 May 1971, completing 1 year, 4 months, and 12 days of continuous active service. His conduct and efficiency ratings were excellent, and there is no derogatory information on file to disqualify him from receiving the first award of the Army Good Conduct Medal. The Board determined he meets the criteria for this award.

b. As for the Army Commendation Medal, award of the Army Commendation Medal requires a formal recommendation, approval through the chain of command, and announcement in orders. The applicant does not provide, and his records do not contain orders awarding him this award. As such, the Board found insufficient evidence to add it to his DD Form 214.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. 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, in addition to the corrections addressed in Administrative Note(s) below, by:

- awarding him the Army Good Conduct Medal (1st Award) for service during the period 129 December 1969 through 10 May 1971
- adding award of the Army Good Conduct Medal (1st Award) 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 the Army Commendation Medal.

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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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows he is authorized additional awards not listed on his DD Form 214 for the period ending 10 May 1971. As a result, amend his DD Form 214 as follows:

a. Item 24 (Awards) by adding the following awards: Republic of Vietnam Gallantry Cross with Palm Unit Citation and 3 bronze service stars to be affixed to his Vietnam Service Medal.

b. Item 30 (Remarks): Amend to read: "Service in Vietnam: 15 February 1971 through 14 February 1972".

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. Chapter 2-19, states, the Vietnam Service Medal is awarded to all 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 one or more days with an organization participating in or directly supporting military operations. An organization is given campaign participation credit if it actually engaged the enemy in combat, was stationed in the combat zone, or performed duties either in the air or on the ground in any part of the combat zone during the time limitations of the campaign. Service stars are worn on the service and campaign medals to denote participation in campaigns. The following are lists of Vietnam campaigns:

- Vietnam Counteroffensive, Phase VII, 1 July 1970—30 June 1971
- Consolidation I, 1 July 1971—30 November 1971
- Consolidation II, 1 December 1971—29 March 1972

b. Chapter 3-19, The Army Commendation Medal is awarded to any service member of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941, distinguishes himself or herself by heroism, meritorious achievement, or meritorious service. Award may be made to a member of

the armed forces of a friendly foreign nation who, after 1 June 1962, distinguishes himself or herself by an act of heroism, extraordinary achievement, or meritorious service, which has been of mutual benefit to a friendly nation and the United States. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

3. Army Regulation 672-5-1 (Awards), in effect at the time, states the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, 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. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

4. Army Regulation 635-5 (Separation Documents) in effect at the time, states that the DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate and reflects the conditions as they existed at the time of separation.

5. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register), paragraph 6d, states that Department of the Army General Orders Number 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Army Vietnam, and its subordinate units for the period 20 July 1965 to 28 March 1973.

6. Army Regulation 15-185 (Army Board for Correction of Military Records) 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.

//NOTHING FOLLOWS//