

IN THE CASE OF: ██████████

BOARD DATE: 29 March 2024

DOCKET NUMBER: AR20230009545

APPLICANT REQUESTS: in effect, correction of his military personnel records and DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the:

- Purple Heart (PH)
- Bronze Star Medal (BSM)
- Combat Infantryman Badge
- any awards authorized for his time in service.
- and an in-person appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Standard Form (SF) 180 (Request Pertaining to Military Records), 5 June 2023
- Vietnam Combat Certificate
- Purple Heart Certificate, unclear date
- Bronze Star Medal Certificate, dated 16 November 1970
- DD Form 214, dated 27 November 1970

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, he is requesting that his military personnel records and DD Form 214 be corrected because he was awarded the BSM on 16 November 1970, the PH on 16 January 1970, and a Certificate of Service in Vietnam (Combat). He was given the three certificates, but the medals were never issued to him, and his DD Form 214 does not reflect the awards. Also, he was never awarded his Vietnam Service Medal, Campaign Medal, or the CIB. He is requesting a complete review of his

records for the addition of these medals to be included in his records and DD Form 214, as well as any other awards that he is entitled to for his service.

3. 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.

4. The applicant provides the following:

a. SF 180 dated 5 June 2023, wherein he requests copies of his military personnel files for the purpose of having his DD Form 214 corrected.

b. Vietnam Combat Certificate, which shows he faithfully served his country with the 4th Battalion, 503d Infantry, 173d Airborne Brigade in the Republic of Vietnam for the period 31 December 1969 to 25 November 1970.

c. A PH certificate. The name and dates on the certificate are illegible.

d. A certificate dated 16 November 1970, which shows the applicant was awarded the BSM for meritorious achievement in ground operations against hostile forces in the Republic of Vietnam, during the period January 1970 to January 1971.

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

a. He was inducted into the Army of the United States on 26 May 1969. He completed training and was awarded military occupational specialty (MOS) 11B (Light Weapons Infantryman).

b. His DA Form 20 (Enlisted Qualification Record) contains the following information:

- Item 8 (Duty MOS) shows 63C (Wheel Vehicle Mechanic).
- Item 22 (Military Occupational Specialties) shows 63C (Wheel Vehicle Mechanic) as his primary MOS and 11B as his secondary MOS. The 11B is crossed out on the document.
- Item 27 (Military Education): Light Weapons Infantryman, 11B, Fort Polk, LA, 9 weeks, 1968
- Item 31 (Foreign Service) shows he served in Vietnam from 1 December 1969 to 29 December 1970.
- Item 38 (Record of Assignments) shows during his service in Vietnam he was assigned to:
  - Company B, 4th Battalion (Airborne), 503d Infantry, 173d Airborne Brigade, USARPAC, as a rifleman, in duty MOS 11B

- Headquarters and Headquarters Company, 4th Battalion (Airborne), 503d Infantry, 173d Airborne Brigade, U.S. Army Pacific (USARPAC), as a radio telephone operator and ammo specialist in duty MOS 11B, and as a wheel vehicle mechanic in duty MOS 63B
- Item 40 (Wounds): left arm, 9 January 1970. The entry is crossed out on this document.
- Item 41 (Awards and Decorations): does not list the award of the BSM or the CIB. It does list the PH, but it is crossed out.

c. He was honorably released from active duty and transferred to the U.S. Army Reserve on 27 November 1970. His DD Form 214 shows he completed 1 year, 6 months, and 2 days of active service. It shows in:

- Item 22c (Foreign Service): USARPAC, 11 months and 26 days
- Item 23a (Specialty Number and Title): 63C, wheel vehicle mechanic
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): does not list the PH, BSM, or the CIB; it lists:
  - National Defense Service Medal
  - Parachutist Badge
  - Vietnam Service Medal
  - Republic of Vietnam Campaign Medal with Device (1960)
  - one overseas service bar
  - Expert Marksmanship Qualification Badge (M-14)
  - Sharpshooter Marksmanship Qualification Badge (M-16)
- Item 25 (Education and Training Completed): Light Weapons Infantryman – 9 weeks.
- Item 30 (Remarks): shows service in the Republic of Vietnam from 1 December 1969 to 26 November 1970

6. The applicant's name is shown on the Vietnam casualty roster as having sustained an injury as a result of hostile action on 9 January 1970. The casualty roster shows he was serving in duty MOS 11B and the injury was coded as not serious, not hospitalized.

7. A review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders issued during the Vietnam era, maintained by the U.S. Army Human Resources Command, failed to reveal any orders that show the applicant was awarded the BSM or the PH.

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

BOARD DISCUSSION:

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

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 Board determined the applicant's certificate for award of the Bronze Star Medal was sufficient to justify correcting the applicant's DD Form 214 to add the Bronze Star Medal.

4. The Board determined there was sufficient evidence to justify awarding the applicant the Combat Infantryman Badge and correcting his DD Form 214 to add this award, because he held an infantry MOS, the evidence of record shows he participated in a firefight, and presumably returned fire.

5. The Board considered the applicant's request for the Purple Heart:

a. The Board majority determined there was sufficient evidence to justify correcting the applicant's DD Form 214 to add the Purple Heart. The applicant provided a certificate for award of the Purple Heart; even though it is illegible, he still provided the certificate of award, and while crossed out, the information was reflected on his DA Form 20.

b. The Board minority found insufficient evidence to justify correcting his DD Form 214 to add the Purple Heart because the name, unit, and dated listed on the certificate were illegible and there was no other evidence to support his request. Furthermore, the entries pertaining to wounds or award of the Purple Heart were crossed out on his DA Form 20.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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

- a. awarding him the Combat Infantryman Badge
- b. correcting item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) of his DD Form 214 ending 27 November 1970 to add the Bronze Star Medal, the Purple Heart, and the Combat Infantryman Badge.

6/10/2024

X

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CHAIRPERSON

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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): amend the DD Form 214 ending 27 November 1970 in item 24 (Awards) to delete the Vietnam Service Medal, and add the -

- Vietnam Service Medal with three 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), currently in effect, prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It states:

a. The Purple Heart (PH) is awarded for a wound sustained while in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify that the wound was the result of hostile action, the wound must have required treatment by medical personnel, and the medical treatment must have been made a matter of official record.

(1) A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed above. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the Service member's medical and/or health record. Award of the PH may be made for wounds treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

(2) When contemplating an award of the PH, the key issue that commanders must take into consideration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite but is not the sole justification for award.

(3) Examples of enemy-related injuries that clearly justify award of the PH include concussion injuries caused as a result of enemy-generated explosions resulting

in a mTBI or concussion severe enough to cause either loss of consciousness or restriction from full duty due to persistent signs, symptoms, or clinical finding, or impaired brain function for a period greater than 48 hours from the time of the concussive incident.

(4) Examples of injuries or wounds that clearly do not justify award of the PH include post-traumatic stress disorders, hearing loss and tinnitus, mTBI or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function.

b. A Soldier must meet the following three requirements to be eligible for award of the Combat Infantryman Badge (CIB):

(1) Be an Infantry Soldier satisfactorily performing infantry duties. A Soldier must be an Army infantry or Special Forces (SF) officer (CMF or AOC 11 or 18) in the grade of COL/O-6 or below, or an Army enlisted Soldier or warrant officer with an infantry or SF MOS who, subsequent to 6 December 1941, has satisfactorily performed duty while assigned or attached as a member of an infantry, ranger, or SF unit of either a brigade, regimental, or smaller size during any period such unit was engaged in active ground combat.

(2) Be assigned to an infantry unit during such time as the unit is engaged in active ground combat. A recipient must be personally present and under hostile fire while serving in an assigned infantry or SF 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 MOS in a rifle squad of a cavalry platoon in a cavalry troop would be eligible for award of the CIB. Battle or CPC alone is not sufficient; the unit must have been in active ground combat with the enemy during the period.

(3) Actively participate in such ground combat. Campaign or battle credit alone is not sufficient for award of the CIB.

(4) To date, a separate award of the CIB has been authorized for qualified Soldiers in the following qualifying periods: Vietnam Conflict and other operations (2 March 1961 to 10 March 1995). Republic of Vietnam Conflict (2 March 1961 to 28 March 1973).

c. The Bronze Star Medal is awarded to any person who, while serving in any capacity in or with the Armed Forces of the United States, or a friendly foreign nation, after 6 December 1941, distinguished himself or herself by heroic or meritorious

achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy; or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

d. 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. The applicant participated in three campaigns during his service in Vietnam.

3. Army Regulation 672-5-1 (Awards), in effect at the time, stated to be eligible for the CIB, an individual must have been an infantry officer in the grade of colonel or below, or an enlisted man or a warrant officer with an infantry MOS, who subsequent to 6 December 1941 satisfactorily performed duty while assigned or attached as a member of an infantry unit of brigade, regimental or smaller size during any period such unit was engaged in active ground combat. Battle participating credit alone was not sufficient; the unit must have been in active ground combat with the enemy during the period. Awards may be made to assigned members of ranger infantry companies as signed or attached to tactical infantry organizations. They may also be made to members of the U.S. Army who are colonels or below and were assigned under appropriate orders for service in Republic of Vietnam.

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. This pamphlet shows 4th Battalion, 503d Infantry, 173d Airborne Brigade was cited for the following unit awards:

a. Department of the Army General Order (DAGO) Number 51, dated 1971, awarded 4th Battalion, 503d Infantry, the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 5 May 1965 to 26 September 1970.

b. DAGO Number 5, dated 1973, awarded 4th Battalion, 503d Infantry, the Republic of Vietnam Civil Actions Honor Medal, First Class Unit Citation for the period 15 April 1969 to 16 March 1971.

5. 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.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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//