

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 April 2024

DOCKET NUMBER: AR20230010030

APPLICANT REQUESTS:

- award of the Valorous Unit Award
- award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation
- 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)
- Excerpt of DA Form 20 (Enlisted Qualification Record)
- Department of the Army (DA) General Orders Number 24, 2 December 1975
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), for the period ending 14 February 1972

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 served with the 238th Aerial Weapons Company (AWC) in Vietnam. He was first attached to the 587th Signal and then transferred to 238th AWC from February 1971 until December 1971. The 587th Transportation Company (TC) was attached to the 238th AWC. He believes, during that time, he was awarded the Valorous Unit Award and the "Unit Vietnamese Cross of Gallantry." He would like both awards added to his DD Form 214.

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

a. He enlisted in the Regular Army on 24 April 1970. His DA Form 20 shows he served in Vietnam from 9 January 1971 to 24 December 1971. He was assigned in Vietnam to the following units:

- 27 January 1971 – 587th TC Detachment (DET), U.S. Army Pacific (USARPAC), Republic of Vietnam (RVN)
- 12 April 1971 – 587th TC DET, USARPAC, RVN
- 30 April 1971 – 238th AWC, USARPAC, RVN
- 29 June 1971 – 238th AWC, USARPAC, RVN
- 25 September 1971 – 238th AWC, USARPAC, RVN
- 19 December 1971 – 238th AWC (Fort Sill, Unit Permanent Change of Station (PCS))

b. His DA Form 20 also shows in Block 41 (Awards and Decorations):

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with 1960 Device
- Overseas Service Bar

c. General Orders Number 40, dated 7 February 1972, awarded the applicant of the 238th Aviation Company the Good Conduct Medal.

d. He was released from active duty on 14 February 1972. His DD Form 214 shows he completed 1 year, 9 months, and 21 days of active service. It also shows he was awarded or authorized:

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with 1960 Device
- Overseas Service Bar
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)

5. A review of the applicant's record confirms he is eligible for an award and campaign credits that are not recorded on his DD Form 214. The entries will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

6. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

7. DA General Orders Number 24, dated 2 December 1975, awarded the Valorous Unit Award to 238th Aviation Company, for service in Vietnam for the period 8 February 1971 to 24 March 1971. The applicant was assigned to 238th Aviation Company on 30 April 1971.

8. DAGO Number 73, dated 1973, awarded the Republic of Vietnam Gallantry Cross with Palm to 238th Aviation Company, for service in Vietnam for the period 8 February 1971 to 27 March 1971. The applicant was assigned to 238th Aviation Company on 30 April 1971.

9. DAGO Number 6, dated 1974, awarded the Republic of Vietnam Gallantry Cross with Palm to 587th Transportation Detachment, for service in Vietnam for the period 1 January 1969 to 30 September 1970. The applicant was assigned to 587th Transportation Detachment on 27 January 1971.

BOARD DISCUSSION:

1. The Board determined 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.

2. 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. According to DA Pamphlet 672-3, none of the applicant's units of assignment was specifically cited by separate orders for award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation during his assignment to those units. However, the Republic of Vietnam Gallantry Cross Unit Citation with Palm was awarded to Headquarters, United States Military Assistance Command and its subordinate units during the period 8 February 1962 to 28 March 1973 and to Headquarters, United States Army Vietnam and its subordinate units during the period 20 July 1965 to 28 March 1973. The applicant is eligible for one award.

b. Although one of the applicant's units, 238th Aviation Company, was awarded the Valorous Unit Award for service in Vietnam for the period 8 February 1971 to 24 March 1971, the applicant was not assigned to that unit until 30 April 1971. He was authorized to temporarily wear the award while with unit, but he is not authorized permanent wear or its recording on 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. 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 amending his DD Form 214, 14 February 1972 by adding the Republic of Vietnam Gallantry Cross with Palm Unit Citation.

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 adding the Valorous Unit Award to his DD Form 214.

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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:

A review of the applicant's service records show he is authorized additional awards and campaign credit not annotated on his DD Form 214. As a result, amend his DD Form 214, for the period ending 14 February 1972, to show:

- three bronze service stars with his previously awarded Vietnam Service Medal
- Army Good Conduct Medal

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 (AR) 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.

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) assist commanders and personnel officers in determining or establishing the eligibility of individual members for campaign participation credit, assault landing credit, and unit citation badges awarded during the Vietnam Conflict.

a. Department of the Army General Orders (DAGO) Number 24, dated 1975, awarded the Valorous Unit Award to 238th Aviation Company, for service in Vietnam for the period of 8 February 1971 to 24 March 1971.

b. DAGO Number 73, dated 1973, awarded the Republic of Vietnam Gallantry Cross with Palm to 238th Aviation Company, for service in Vietnam for the period of 8 February 1971 to 27 March 1971.

c. DAGO Number 17, dated 1968, awarded the Meritorious Unit Commendation to 587th Transportation Detachment, for service in Vietnam for the period of 1 July 1966 to 28 February 1967.

d. DAGO Number 6, dated 1974, awarded the Republic of Vietnam Gallantry Cross with Palm to 587th Transportation Detachment, for service in Vietnam for the period of 1 January 1969 to 30 September 1970.

4. DA General Orders (DAGO) 8, 1974, announced award of the RVN Gallantry Cross Unit Citation with Palm for service in Vietnam to the following units:

- Headquarters, United States Military Assistance Command and its subordinate units during the period 8 February 1962 to 28 March 1973.
- Headquarters, United States Army Vietnam and its subordinate units during the period 20 July 1965 to 28 March 1973.

//NOTHING FOLLOWS//