

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2024

DOCKET NUMBER: AR20230010090

APPLICANT REQUESTS:

- Award the Air Medal and add it to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)
- Permission to appear personally before the Board, via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Handwritten record of combat flights

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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 fulfilled the award requirements while serving as an infantry officer advisor in Vietnam, and he notes that he submitted his request for the award prior to leaving Vietnam. A fellow officer who had remained in country later told him that, after the applicant left, they forwarded the applicant's Air Medal recommendation to his advisory team's provincial administrative office. The applicant adds that he can substantiate the combat assaults, eagle flights, and visual reconnaissance flights in which he participated between October 1970 and February 1971; the total was over 26 hours of combat flight time, and the regulation at the time required you had to have at least 25 hours to qualify for the Air Medal. He continued his participation his combat flight until they ordered him to the rear, in early June 1971; after he left active duty, he remained in the U.S. Army Reserve and ultimately retired as a colonel. The applicant provides additional details in a self-authored statement:

a. The applicant affirms his belief that he earned the Air Medal while serving as an assistant team leader for a mobile advisory team (MAT); a MAT consisted of two

officers and three noncommissioned officers, and they were imbedded with South Vietnamese Regional Forces/Popular Forces. He maintains the award of the Air Medal is warranted because he completed and actually exceeded the requisite number of combat flight hours. He told this to his administrative officer, and he assumed the administrative officer would then forward a recommendation for the Air Medal.

b. Later, the applicant made several inquiries about his awards with both the Army and the Department of Veterans Affairs; however, none of the responses showed the award of the Air Medal. His support staff in Vietnam failed to properly execute their administrative duties, and their omission is unfair and unjust.

c. While American units were adequately staffed with training and dedicated Soldiers, the Military Assistance Command, Vietnam (MACV) lacked personnel and organization. While the MACV staff enjoyed the comforts and security of the rear area, the applicant and others like him were honorably performing their combat missions on the battlefield.

d. After the applicant explains why the Board should waive the 3-year time requirement for an application, the applicant states he has attached a handwritten record of his flights, which he generated at the time. On his document, the applicant shows the flight dates and the rank/last name of the pilots; in addition, he had the pilots sign their names. He acknowledges that some of the writing is "shaky," and this is because the document was being written while the helicopters' engines were running.

e. The applicant offers a description of the various flight operations in which he participated, explaining that the district headquarters had the responsibility of coordinating air operations, and a brigade of the 1st Cavalry Division (Airmobile) operated within the area and provided air assets:

(1) Eagle Flight. "A mission involving one lift helicopter, myself, a Vietnamese officer and one squad of Vietnamese and a helicopter gun ship. We would fly over the roads and jungles looking for suspicious activity, landing at those sites. Myself and the Vietnamese (Soldiers) would off load and check the area, occasionally detaining suspected Viet Cong, then call the lift ship for pick up; the gunship would fly overhead cover and wait for my command to engage the enemy if necessary."

(2) Visual Reconnaissance (VR). "Myself and Vietnamese officers would fly over the jungle to either view the terrain of a planned operation or look for suspected enemy locations in order to mount a ground operation against them."

(3) Combat Assault (CA). "The well-known air-mobile operation into a landing zone (LZ). Usually these operations involved three lift helicopters, which would shuttle approximately 60 – 70 Vietnamese troops to the LZ. I would always be on the first

shuttle/lift. The helicopters would be accompanied by several gunship helicopters. The LZ was usually "prepped" by an artillery barrage. Once the barrage was lifted the helicopters carrying the troops would land as the gunships fired rockets and machine guns to suppress possible enemy at the LZ. The door gunners on the lift helicopters would also fire their machine guns as the troops and I jumped out. The lift helicopters would return several times with more troops after the LZ was secured."

3. The applicant provides a two-page handwritten document that reflects the following:

a. October 1970.

- "1 Eagle Flight 1-3 pm 2 2 [applicant's initials]"
- "2 Visual Recon 1-1:30 pm 2.30 .30 [applicant's initials]"
- "3 Combat Assault 9:30-9:45 am 2.45 .15 [applicant's initials]"
- "13 Eagle Flight 1-3 pm 4.45 2 [applicant's initials]"
- "15 Medivac 7-7:30 a, 5.15 [applicant's initials]"
- "16 Eagle Flight 3-5pm 7.15 2 [applicant's initials]"
- "24 Eagle Flight 3-5 pm 9.15 2 8:45"
- "M__ M__, CPT (captain) (pilot)"

b. End of October and all of November 1970 entries:

- "10/27 Eagle Flight 2:30-2:55 pm 2 11.15 (illegible signature, WO1 (warrant officer one))"
- "11/1 Visual Recon 2:20-2:50 pm 11.45 .30 11.15 D__ A. F__ (pilot)"
- "11/3 Eagle Flight 8-10 am 13.45 2 13.15 (illegible signature)"
- "11/8 Eagle Flight 8-10 am 15.45 2 15.15 J__ P__ (pilot)"
- "11/18 CA (combat assault) 11:50 am → 12:05 16:00 .15 15.30"
- "11/27 Eagle Flight 2:30-3:30 (illegible signature)"

c. Entries for December 1970.

- "10 Eagle Flight 3:30-4:45 18.15 1.15 17.45 (cumulative hours)"
- "17 Eagle Flight 2:00 (or 2:40) pm - 4:00 pm 20:15 2 19.45"
- "27 Eagle Flight 1:15 pm - 2:45 pm 21:45 1.30 21.15"

d. January 1971 entries.

- "3 Visual Recon 16:00-16:40 22.15-1.10 :40 21.55"
- "4 CA 09:00-09:15 21:20 :15 22.10"
- "5 CA 0830-0845 0 :15 22:28"
- "1/24 VR 1400-1450 :50 23:15"

e. February 1971 entries.

- "2/3 Eagle Flight 1500-1645 (illegible comment) 20 1:45 25:00"
- "2/13 Eagle Flight 0715-0815 21 26:00"
- "2/28 VR 1320-1350 22 :30 26:30 (total hours; circle added by applicant)"

4. A review of the applicant's service records reveals the following:

a. On 9 June 1969, the applicant executed his oath of office as a U.S. Army Reserve (USAR) commissioned officer; he was branched armor (the applicant's DA Form 71 (Oath of Office – Military Personnel) is unavailable for review). After completing his armor officer basic course and serving for nearly a year at Fort Hood, TX (now renamed Fort Cavazos), the applicant received reassignment instructions for Vietnam, and he arrived in-country, on 15 August 1970. Effective 16 September 1970, orders further assigned him to a MAT within Advisory Team 49, MACV.

b. On 17 November 1970, MACV Special Orders awarded the applicant the Combat Infantryman Badge (1st Award). On 3 May 1971, MACV General Orders (GO) awarded the applicant the Bronze Star Medal for meritorious service, during the period September 1970 to May 1971.

c. On 12 June 1971, the applicant completed his Vietnam tour, and orders reassigned him to the U.S. Army Personnel Center at Oakland, CA for separation processing. On 17 June 1971, the Army honorably released the applicant from active duty and transferred him to the USAR. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 1 year, 9 months, and 28 days of net active duty service. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) lists the following: National Defense Service Medal, Republic of Vietnam Campaign Medal with Device (1960), Vietnam Service Medal, Combat Infantryman Badge, Bronze Star Medal and one overseas service bar

5. U.S. Army, Vietnam (USARV) Regulation 672-1, in effect at the time, provided specific guidelines for award of the Air Medal.

a. The regulation also established three categories for aerial missions:

- Category I – An assault role in which a hostile force was engaged and was characterized by delivery of ordnance against a hostile force, or delivery of supplies into the immediate combat operations area
- Category II – A mission in support of a friendly force immediately before, during, or immediately following a combat operation; examples included air

land or parachute resupply not connected to a combat assault and troop lift in support of combat operations not connected to a combat assault

- Category III – A mission supporting friendly forces that was not connected to an immediate combat operation, but which required the aircraft to operate at altitudes that made the aircraft vulnerable to small arms fire or during adverse weather or terrain conditions

b. To receive the Air Medal based on participation in sustained operations, the prospective awardee had to have completed a specific number of missions and hours of flight time; the regulation provided examples as to how flights recorded on DA Forms 759 and 759-1 could be used to determine the types and numbers of missions, as well as the total flight hours by category:

- 25 Category I missions with a minimum of 25 hours of flight time
- 50 Category II missions with at least 50 hours of flight time
- 100 Category III missions with not less than 100 hours of flight time

6. AR 15-185 (ABCMR), currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

b. 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. 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 not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The main source documents for award of the Air Medal during the Vietnam War were the DA Forms 759 (Individual Flight Record and Flight Certificate-Army) and DA Form 759-1

(Individual Flight Record and Flight Certificate-Army Aircraft Closeout Summary). These forms detailed the flight hours, type of missions, and flight status. In the absence of these official forms, a determination of eligibility for award of the Air Medal cannot be made. Therefore, in the absence of official flight records, recommendation or general orders, or other independent evidence that would confirm he completed the number of missions necessary to be awarded the Air Medal, there is insufficient evidence upon which to base award of the Air Medal in this case. Nevertheless, while the available evidence is insufficient for awarding the applicant an Air Medal, this in no way affects his right to pursue his claim for this personal decoration by submitting a request through his Member of Congress under the provisions of 10 USC 1130.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, the Board found 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.

ADMINISTRATIVE NOTE(S):

1. AR 635-5 (Separation Documents), in effect at the time, stated the DD Form 214 was to list all decorations, service medals, campaign credits, and badges awarded or authorized.

2. AR 600-8-22, currently in effect, states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States based on their qualifying service in Vietnam after 3 July 1965 through 28 March 1973. A bronze service star will be awarded for wear on the Vietnam Service Medal for the Soldier's participation in each recognized campaign; Vietnam campaigns include the following: Counteroffensive, Phase VII (1 July 1970 to 30 June 1971).

3. Department of the Army Pamphlet (DA PAM) 672-3 (Unit Citation and Campaign Participation Credit Register) shows the following:

a. Department of the Army General Order (DAGO) Number 11, dated 1973, awarded the Meritorious Unit Commendation to Advisory Team Number 49, for the period 15 April 1970 to 15 April 1972.

b. DAGO Number 8, dated 1974, awarded all units that served in Vietnam the Republic of Vietnam Gallantry Cross with Palm Unit Citation.

5. Based on the foregoing, amend the FSM's DD Form 214, ending 17 June 1971, as follows: item 24: delete Vietnam Service Medal and add the following:

- Vietnam Service Medal with one bronze service star
- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

REFERENCES:

1. Title 10, USC:

a. Section 1130 (Consideration of Proposals for Decorations Not Previously Submitted in a Timely Fashion: Procedures for Review). Upon request of a Member of Congress, the Secretary concerned shall review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary shall make a determination as to the merits of approving the award or presentation of the decoration.

b. 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. AR 600-8-22 (Military Awards), currently in effect, prescribes policies and procedures for military awards.

a. Paragraph 1-14 (Time Limitation). Each recommendation for an award of a military decoration must be entered administratively into military channels within 2 years of the act, achievement, or service to be honored. The time limitations defined herein only apply to military awards that require preparation of a recommendation packet to be processed.

(1) Preparing an award recommendation years after an action has occurred can be a challenge. Proposals for decorations not previously submitted in a timely fashion are submitted through a Member of Congress to the Commanding General, U.S. Army Human Resources Command (HRC).

(2) In the event an incomplete award recommendation is submitted, the Chief, HRC Awards and Decorations Branch will contact the requesting Member of Congress and provide specific guidance regarding the additional information required for the case to be considered. Appendix J prescribes mandatory procedures for Army compliance with Title 10, USC, section 1130.

b. Paragraph 3-18 (Air Medal). The Air Medal may be awarded to any person who, while serving in any capacity in or with the Armed Forces of the United States, has distinguished themselves by meritorious achievement while participating in aerial flight.

(1) Awards may be made to recognize single acts of valor, merit, or heroism or for meritorious service as described below:

(a) Awards may be made for acts of heroism 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, which are of a lesser degree than required for award of the Distinguished Flying Cross.

(b) Awards may be made for a single act of meritorious achievement, involving superior airmanship, which are of a lesser degree than required for award of the Distinguished Flying Cross, but nevertheless were accomplished with distinction beyond that normally expected.

(c) Awards for meritorious service may be made for sustained distinction in the performance of duties involving regular and frequent participation in aerial flight for a period of at least 6 consecutive months (a month is considered 30 calendar days). In this regard, accumulation of a specified number of hours and missions will not serve as the basis for award of the Air Medal.

(2) Award of the Air Medal is primarily intended to recognize those personnel who are on current crewmember or non-crewmember flying status which requires them to participate in aerial flight on a regular and frequent basis in the performance of their primary duties. However, it may also be awarded to certain other individuals whose combat duties require regular and frequent flying in other than a passenger status or individuals who perform a particularly noteworthy act while performing the function of a crewmember, but who are not on flying status as prescribed in AR 600 106 (Flying Status for Non-Rated Army Aviation Personnel).

(a) These individuals must make a discernible contribution to the operational land combat mission or to the mission of the aircraft in flight. Examples of personnel whose combat duties require them to fly include those in the attack elements of units involved in air-land assaults against an armed enemy and those directly involved in airborne command and control of combat operations. Involvement in such activities, normally at the brigade or group level and below, serves only to establish eligibility for award of the Air Medal.

(b) The degree of heroism, meritorious achievement, or exemplary service determines who should receive the award. Awards will not be made to individuals who use air transportation solely for the purpose of moving from point to point in a combat zone.

c. Appendix J (Initial Consideration and Reconsideration of an Award through a Member of Congress). Pursuant to Title 10, USC, section 1130, when an award is not otherwise authorized to be presented or awarded due to limitations established by law or policy regarding the timely submission of an award recommendation, Members of Congress may request the Secretary of the Army (SECARMY) review a proposal for the award or presentation of a decoration, either for an individual or a unit. Based upon such a request, the SECARMY will make a determination as to the merits of approving the award or presentation of the decoration and other determinations necessary to comply with Title 10, USC, section 1130. In Table J-1 of this appendix, the regulation provides detailed instructions for the individual submitting an awards recommendation per Title 10, USC, section 1130.

3. AR 672-5-1 (Awards), in effect at the time, stated the Air Medal could be awarded to any person who, while serving in any capacity in or with the Army of the United States, distinguished himself by meritorious achievement while participating in aerial flight. Awards could be made to recognize single acts of merit or sustained operational activities against an armed enemy, or for heroic acts in, aerial flight. The required achievement, while of lesser degree than that required for the award of the Distinguished Flying Cross, had to nonetheless have been accomplished with distinction beyond what was normally expected. General Orders were used to announce each award of the Air Medal for meritorious achievement.

4. USARV Regulation 672-1, in effect at the time, provided specific guidelines for award of the Air Medal.

a. The regulation also established three categories for aerial missions:

- Category I – An assault role in which a hostile force was engaged and was characterized by delivery of ordnance against a hostile force, or delivery of supplies into the immediate combat operations area
- Category II – A mission in support of a friendly force immediately before, during, or immediately following a combat operation; examples included air land or parachute resupply not connected to a combat assault and troop lift in support of combat operations not connected to a combat assault
- Category III – A mission supporting friendly forces that was not connected to an immediate combat operation, but which required the aircraft to operate at altitudes that made the aircraft vulnerable to small arms fire or during adverse weather or terrain conditions

b. To receive the Air Medal based on participation in sustained operations, the prospective awardee had to have completed a specific number of missions and hours of flight time; the regulation provided examples as to how flights recorded on DA Forms

759 and 759-1 could be used to determine the types and numbers of missions, as well as the total flight hours by category:

- 25 Category I missions with a minimum of 25 hours of flight time
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5. AR 15-185 (ABCMR), currently in effect, states:

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b. 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.

//NOTHING FOLLOWS//