

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 May 2024

DOCKET NUMBER: AR20230010139

APPLICANT REQUESTS: reconsideration of his previous request for award of the Combat Infantryman Badge (CIB), Global War on Terrorism Service Medal, and Kosovo Campaign Medal. He further requests a personal appearance hearing before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Orders 230-2871, Headquarters U.S. Maneuver Center of Excellence, 18 August 2014
- Diploma, 198th Infantry Brigade, U.S. Army Infantry School, 3 October 2014
- 2 pages of Briefing Notes, March 2018
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 16 January 2020
- 3-page self-authored statement, 12 July 2023
- Sworn statement, MSM, 14 November 2023
- 1-page self-authored statement, undated
- 1-page self-authored statement, undated
- 1-page statement, CG, undated
- 1-page extract from Army Regulation 600-8-22 (Military Awards), paragraph 8-6

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220007081 on 31 January 2023.

2. The applicant provides new evidence or argument which warrants consideration by the Board.

3. A review of the applicant's ABCMR Docket Number AR20220007081 on 31 January 2023 shows the applicant met the criteria for awards of the Global War on Terrorism Service Medal and Kosovo Campaign Medal. A DD Form 215 (Correction to DD Form 214) is not currently resident in his Official Military Personnel File.

4. The applicant states, in effect:

a. Not every CIB was awarded to Soldiers who met the criteria completely, that is why Army Regulation 600-8-22 has been changed so many times. He was almost shot, and he engaged the enemy. Some Soldiers cannot say the same these days. He feels his command “forgot” to submit the request because they did not want to start an international conflict even though they faced threats daily.

b. His previous requests were denied for unspecified reasons even though the Board stated they would like to take favorable action but were unable to verify his entitlement. He has read all the regulations and U.S. Code that he could and provided statements from each along with his personal statement from 2018 after the event, witness statements, notes given to his unit during briefs they were given which identified hostile forces that operated in the region, but he was denied every time.

c. Instead of using the facts, regulations and U.S. Code definition of a hostile foreign force/fighter, the Board found any reason to deny him the badge when he undeniably meets the requirement. Nowhere is it stated that there is a specific name for a so called hostile foreign force. Army Regulation 600-8-22 states, “the intent has been clarified over time as being personally present, under fire, and engaging in action against the enemy in ground forces combat.” If receiving a CIB because of being within an undetermined distance or being with a blast radius, he should receive the CIB for being personally present, under fire and returning fire.

d. 42 U.S. Code 1711 states the term “hostile force or person means any nation, any subject of a foreign nation, or any other person serving a foreign nation (1) engaged in a war against the United States or any of its allies, (2) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies, or (3) engaged in a war or armed conflict between military forces of any origin in any country in which a person covered by this chapter is serving.

e. Why does his request continuously get denied when he meets these requirements? Why does the Board downplay his situation as if it is a fairy tale? He believes he is being denied by opinion and not the facts. His decision to return fire, seek cover and concealment and maneuvering to another Soldier was better than facing imminent death. The Board’s decision was unfair and unjust. He may not have hit the enemy, but he damn sure tried to kill them.

5. The applicant enlisted in the Arkansas National Guard on 20 May 2013.

6. On 17 July 2014, the applicant was ordered to active duty for training, and he was honorably released from active duty (REFRAD) on 3 October 2014. His DD Form 214 shows he was awarded military occupational specialty (MOS) 11B (Infantryman).

7. His National Guard Bureau (NGB) Form 22 (National Guard Report of Separation and Record of Service) shows he was discharged from the Arkansas National Guard on 2 March 2015. He subsequently enlisted in the active component of the U.S. Army on 3 March 2015.

8. Orders 15076-58, dated 17 March 2015, awarded him MOS 19D (Cavalry Scout).

9. North Atlantic Treaty Organization (NATO) Orders CR-300-0016(N) and Orders CR-300-0016, dated 27 October 2015 show he was directed to proceed on a temporary change of station for deployment to Afghanistan in support of Operation Freedom's Sentinel, with a will proceed date of on or around 11 December 2015.

10. The applicant provided orders directing his deployment in support of Operation Freedom's Sentinel - Afghanistan, not to exceed 270 days proceeding on or about 11 December 2015.

11. Orders CR-024-0071 and NATO Orders CR-024-0071(N), dated 24 January 2018, show he was directed to proceed on a temporary change of station for deployment to Camp Bondsteel, Kosovo in support of Operation Joint Guardian, with a will proceed date of on or about 13 February 2018.

12. The applicant was discharged from active duty on 16 January 2020. His DD Form 214 contains the following information and/or entries:

- a. block 11 (Primary Specialty) - 19D (Cavalry Scout)
- b. block 12f (Foreign Service) - 1 year and 21 days
- c. block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):

- Army Achievement Medal
- Army Good Conduct Medal
- National Defense Service Medal
- Armed Forces Expeditionary Medal
- Global War on Terrorism Expeditionary Medal
- Noncommissioned Officer Professional Development Ribbon
- Army Service Ribbon
- Overseas Service Ribbon
- North Atlantic Treaty Organization Medal
- Expert Marksmanship Qualification Badge with Carbine Bar

- d. block 18 (Remarks)

- SERVICE IN KUWAIT 20190228 – 20190621
- SERVICE IN KOSOVO 20180219 - 20181115

13. During the processing of this case, the Defense Finance and Accounting Service (DFAS) reviewed his Master Military Pay Account and could not verify his service in Afghanistan.

14. A Buddy statement from SPC / Mr. G. states, in effect, on the night of 18 November 2018, during his Tactical Operations Center (TOC) duty, he and a few members of the mortar section who were asleep heard rounds being fired. He states the applicant ran into the TOC and informed him and the command team of his contact and engagement with two enemy combatants outside the fence near Tower 3. During his brief to the command team, the applicant confirmed that he returned fire and there were no casualties. After the brief, the command team told everyone to increase security and went back to sleep. No follow-on investigations took place.

15. On 21 May 2021, by letter, the Awards and Decorations Branch at the U.S. Army Human Resources Command responded to the applicant's inquiry concerning his desire to obtain an award of the CIB. The Awards Branch is unable to authorize the requested badge for issuance; Army combat badges are designed to provide special recognition to Soldiers who personally engage the enemy in ground combat or who satisfactorily perform their duties while being engaged in ground combat by the enemy. This particular event does not meet the regulatory guidance for award of the CIB. In accordance with Army Regulation 600-8-22, paragraph 8-6, the CIB is not intended to recognize an individual for unit battle participation or deployment to a combat zone. The CIB is designed to recognize the infantry Soldier, whose daily mission is to close with and destroy the enemy. The badge is intended to recognize an individual Soldier's satisfactory performance in ground combat with the enemy. As the engagement described in the forwarded narrative does not involve a hostile foreign force (i.e. a recognized enemy of the United States), this incident does not meet the criteria for award of the CIB. Although this response is not favorable, in no way does it detract from his faithful and dedicated service to our Nation.

16. On 16 October 2021, the Awards & Decorations Branch again responded to his inquiry concerning his desire to obtain an award of the CIB. The Awards Branch remains unable to authorize the requested badge for issuance; as stated in their previous correspondence dated May 21, 2021, Army combat badges are designed to provide special recognition to Soldiers who personally engage the enemy in ground combat or who satisfactorily perform their duties while being engaged in ground combat by the enemy. As the engagement described in the forwarded narrative does not involve a hostile foreign force (i.e. a recognized enemy of the United States), they remain unable to authorize an award of the CIB for this particular event.

17. On 4 November 2021, the Awards and Decorations Branch again informed him that while they would like to take favorable action, they remain unable to verify his entitlement to the CIB after review of the previously forwarded documentation as well as his entire Army Military Human Resource Record. At this time, they can take no further administrative action regarding his request. His next course of action concerning this matter is to appeal this determination to the highest appellate authority on personnel matters. He may contact the ABCMR.

18. On 22 April 2022, the Awards and Decorations Branch at the U.S. Army Human Resources Command sent a fourth letter responding to the applicant's request for reconsideration regarding your eligibility for the CIB. The Awards Branch remains unable to take favorable action on his request. Per their previous correspondence dated November 4, 2021, in order to pursue this award any further, he must apply to the ABCMR.

19. The applicant provides:

a. Orders 230-2871, Headquarters U.S. Maneuver Center of Excellence, 18 August 2014, which awarded him the primary military occupational specialty (MOS) 11B (Infantryman), effective 3 October 2014 or upon completion of MOS training.

b. 198th Infantry Brigade, U.S. Army Infantry School diploma.

c. 2 pages of briefing notes from the command of the 82nd Airborne, 3-319 Field Artillery, March 2018, Kosovo deployment. The entries show various threats. The entries do not specifically refer to any instance of enemy aggression involving enemy fire or return fire. However, two entries use the term "Aggressive Spotter Network" and of the two entries one notes "RTE Falcon."

d. 1-page self-authored statement, undated, which states, in effect:

(1) During the night of 18 October 2018, he was assigned to A-Troop, 3rd Squadron, Cavalry Regiment, 2nd Infantry Brigade Combat Team, 4th Infantry Division. At that time, he was conducting security and personnel checks at the towers on Camp Nothing Hill south of Leposovic, Kosovo, Serbia and west of the Ibar river. At the time of this specific patrol, he was enroute to Tower 3 which is at the south east corner of the camp. As he made his way in between a set of barracks and the shoppette area near the basketball court, he made out two silhouettes he thought were two subordinate Soldiers accompanying each other to begin their guard duties at the Entry Control Point (ECP).

(2) Unfortunately, that was not the fact and that they were two enemy

combatants outside of the camp and propped on the outside of the fence to the camp when they opened up with a light machine gun burst in his direction. He immediately returned a control pair as he sought the nearest cover/concealment position which was behind the empty barracks building. After he looked around the corner and noticed that the two enemy combatants were no longer present, he bounded to Tower 3 behind as much cover with no stopping since it was less than 50 meters away.

(3) He eventually arrived at tower three within 20 seconds or so of the short engagement to check to see if Private First Class (PFC) F was green. He confirmed that he heard the rounds but did he see where the muzzle flash came from? The applicant told him that he had been engaged, once he was aware of the distance and direction of the contact he was instructed to maintain a defensive posture and prepare for a potential ambush. He informed PFC F to contact ECP with his handheld as the applicant sprinted to the Tactical Operations Center (TOC) to have the Soldier on shift, Specialist (SPC) G to inform the command team.

(4) Their Troop Commander, First Sergeant (1SG), Executive Officer and Headquarters Platoon Sergeant were awakened and briefed on the current situation. He let the 1SG and commander know that he engaged the approximately two enemy fighters. They wanted to know if anyone was present with him. Since he was the only one present under fire, the commander wanted SPC G to review camera footage closest to Tower 3. However, due to the fact that their unit was the first to get CCTV cameras installed, none were wired to the TOC for the outer perimeters of the camp.

(5) Once the information was relayed to the command, the applicant and a few members from the ECP team conducted a perimeter patrol to try to find any impact or ricochet of rounds to any hard stands and to see if they attempted to or successfully breached anywhere. There were no rounds that hit any of the buildings though the rounds did skip and snap pass near the barracks within 5 meters of his person.

e. 1-page self-authored statement, undated, which states, in effect:

(1) His past requests were denied simply because the narrative that he had submitted did not involve a hostile foreign force, specifically one recognized as an enemy by the United States. However, in accordance with 42 U.S. Code 1711 the hostile act(s) alone against himself and other U.S. forces including NATO allies, by definition that missing involvement of a specific hostile force should not be a factor in the denial of the CIB. Also, he included notes from his deployment that mentioned all of the threats they faced to include Islamic State (ISIS) as well as their affiliates that operated in their area of effect (AOE).

(2) Their intelligence played a big roll in the indictment of the ISIS leader(s) and members in that region, as well as prevention of multiple large scale terrorist attacks which multiple targets were in our AOE. Out of all of the ISIS members, their primary High Value Target was Bujar Behrami. He and all involved in planning/preparation were indicted which caused tensions to rise along with tensions from separate events. At the time of their arrests and the announcement of their now foiled plans, kinetic events began to take place with him exchanging fire with potential ISIS, their affiliates, Balkan Cossack members or members of militias or Serbian forces due to continuous border control conflicts.

(3) He specifically explained his engagement the way he does because of how personal it was. How the feeling of the rounds impacting from 5 meters to inches in front of him. To unexplainably missing his entire body and being walked just inches above his head. That incident resonates differently from all other events he was involved in and feel that the individual(s) that reviews his request once again will show liberal consideration when reviewing.

(4) With all due respect, he feels that since individuals are awarded the CIB for IEDs and IDF without being in a casualty producing range, his discharging of his weapon with the intent to destroy them alone at the time after being engaged by a crew served weapon, in his opinion he should be awarded the CIB. With this additional information, he hopes that it is what was needed to award him the CIB.

f. Statement, undated, from CG, who claims he was on TOC duty the night of 18 November 2018. A few hours into his shift, he and a few members of the mortar section that were asleep across the hall heard rounds being fired outside. Before he could contact the ECP they were contacting him for any information about the direction of contact. Shortly afterwards PFC F was informing him of the situation as the ECP was having the towers call in for status checks. [The applicant] ran into the TOC shortly after to inform him and the command team of his engagement. He stated that he saw two guys outside of the fence near Tower 3 when they opened fire on him and he returned fire back. He said once he noticed they were gone he went to Tower 3 to check on PFC F and to see where they went. The command team was awakened and informed of the current situation and asked if anyone was injured and if anyone returned fire and that's when [the applicant] said that there were no casualties, but he did return fire and that he was by himself. After the commander, 1SG and Executive Officer were given all of the information from [the applicant], they all went back to sleep after informing everyone to increase security. No follow-on investigations took place afterwards.

g. Sworn statement from MSM dated 14 November 2023, clarifying a sworn statement he made on 2 April 2019. The statement was referring to a situation which occurred with the applicant. The statement appears to belong to the applicant's case

with the Army Discharge Review Board as it does not discuss his request for award of the CIB.

h. Extract from Army Regulation 600-8-22, paragraph 8-6, CIB:

(1) A recipient must be personally present and under hostile fire while serving in an assigned infantry or Special Forces (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 Campaign Participation Credit alone is not sufficient; the unit must have been in active ground combat with the enemy during the period.

(2) Personnel with other than an infantry or SF MOS are not eligible, regardless of the circumstances. The infantry or SF Career Management Field Area of Concentration or MOS does not necessarily have to be the Soldier's primary specialty. As long as the Soldier has been properly trained in infantry or SF tactics, possesses the appropriate skill code, and is serving in that specialty when engaged in active ground combat as described above. Commanders are not authorized to make any exceptions to this policy.

(3) Contingency operations other than war, not specifically included in the above specified qualifying periods, will be aligned to an appropriate qualifying period.

(4) Retirees and veterans should address their applications to the U.S. Army Human Resources Command, Awards and Decoration Branch for processing. The DA Form 4187 (Personnel Action) with endorsement by the first general officer is not required. All other criteria must be met.

(5) Line 6 of Army Regulation 600-8-22 covers contingency operations which are "military actions requiring rapid deployment of the full spectrum of military forces in support of national policy short of war." according to Field Manual 5-71-100 (Division Engineer Combat Operations) in Chapter 7.

20. Army Regulation 15-185 (ABCMR) states 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.

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 Board

Carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence to support the applicant's contentions for award of the Combat Infantryman Badge (CIB). The Board noted the applicant records reflect his primary specialty as a 19D (Cavalry Scout). The Board found based on governing regulation the applicant did not meet the criteria to be awarded the Combat Infantryman Badge. Therefore, the Board denied relief.

2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

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 to amend the decision of the ABCMR set forth in Docket Number AR20220007081 on 31 January 2023.



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 annotated on his DD Form 214 for the period ending 30 June 1995. Ensure DD Form 215 is completed awarding the Global War on Terrorism Service Medal and the Kosovo Campaign Medal.

REFERENCES:

1. Army Regulation 600-8-22 (Military Awards) prescribes Army policy and procedures concerning awards. Paragraph 8-6 provides for award of the CIB. The paragraph states that there are basically three requirements for award of the CIB. 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. Specific requirements state, in effect, that an Army enlisted Soldier must have an infantry or special forces specialty, satisfactorily performed duty while assigned or attached as a member of an infantry, ranger or special forces unit of brigade, regimental, or smaller size during any period such unit was engaged in active ground combat. A recipient must be personally present and under hostile fire while serving in an assigned infantry or special forces primary duty, in a unit actively engaged in ground combat with the enemy.
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 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. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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//