

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 April 2024

DOCKET NUMBER: AR20230010630

APPLICANT REQUESTS: reconsideration of his previous request to be awarded the Combat Medical Badge (CMB)

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

- Request for Reconsideration
- Standard Form 600 (Chronological Record of Medical Care)
- Pictures of the applicant, the start of the attack and the medivac helicopter
- Memorandum from the Army Board for Correction of Military Records (ABCMR)
- Letter from the ABCMR

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20210017440 on 24 August 2022.

2. The applicant states in his request for reconsideration:

a. He is appealing the decision by the Deputy Assistant Secretary of the Army (DASA) (Review Boards) to overturn the unanimous recommendation by the ABCMR for award of the CMB. He maintains that the original legal documentation of combat medical care, Standard Form 600, and other documents, as submitted, including photographs, satisfy regulatory guidance to the extent that can be considered reasonably feasible. Extenuating circumstances, including administrative errors in the misrouting of forms for approval, during a period of high operational tempo, in a remote outpost theater, and factors that preclude re-attestation by witnesses should be given strong consideration, when applying regulatory guidance for the award.

b. The CMB was earned by the applicant in December 2003, at which time he provided lifesaving combat medical care, under fire, to a seriously wounded Afghan Soldier at a remote Special Forces firebase deep inside an area under Taliban control. As stated in the applicant's request, the requisite documentation and completed DA Form 638 (Recommendation for Award) that was submitted to the Combined Joint

Special Operations Task Force (CJSOTF) at Camp Vance, Bagram Airfield, Afghanistan was misrouted and erroneously forwarded to the applicant's initial mobilization unit of the Kentucky Army National Guard (KYARNG), consequently the award was never published.

c. After the applicant's deployment, he returned to civilian practice and then retired. He did not discover this error until he reviewed his Army records on the U.S. Army Human Resources Command (AHRC) website, during a voluntary recall to Active Duty in order to provide critical medical support to the 4th Infantry Division, during the COVID 19 National Emergency in 2021. Understandably, due to the lapse of 17 years, he was unable to trace the location of the medics with whom he worked in order to obtain duplicate eyewitness accounts.

d. However, as per patient administration director (PAD) protocol, the applicant retained a copy of the Standard Form 600, the standard Army form used for recording the circumstances and extent of injury, timeline of treatment instituted, and patient disposition. That was signed by the applicant and the two medics who assisted the applicant in providing life-saving treatment, while under fire, at the firebase, during the enemy attack. The U.S. Government, including the Department of Defense, considers and Standard Form 600 to be legally admissible documentation of medical care, and is considered sufficient proof of medical treatment by physicians throughout the U.S. Judicial system, to include Federal Court.

e. During this active ground combat, a photo was taken, clearly showing the applicant after taking the severely wounded Soldier into the medical facility, and stabilizing him for air evacuation to a higher echelon of surgical care. Photos taken during the attack and evacuation provide additional documentation.

f. He stated to the DASA (Review Boards), with all due respect, he is not asking to be given this award. He earned this award through his actions as a Combat Surgeon, caring for a wounded Soldier, under hostile fire, at a remote Army firebase to which he was voluntarily assigned at the by-name request of the CJSOTF Surgeon.

g. After careful deliberation and a detailed review of all of the original documentary evidence submitted, every member of the Board agreed. So does the applicant's Congressman, himself a combat veteran of Afghanistan. So does the applicant's State Disabled American Veteran Representative, a former Army medic and veteran of the war in Vietnam. And so does the applicant's attorney, a veteran of Desert Storm. After independent reviews of the documentation and the regulatory guidance for award of the CMB, they all concurred that the independent, and unanimous decision of the Board, was valid and should be supported given the existing circumstances and documentary evidence.

h. The applicant requests that deliberate review of the actual documentation provided be conducted, and the decision to overturn the unanimous decision of the Board be reconsidered, taking into consideration the nature and circumstances of wartime clerical errors and the passage of a considerable period of time. In the opinion of each member of the Board, reached independently, the documentary evidence submitted provides sufficient corroborative evidence of the lifesaving care the applicant rendered, while under fire, at a remote Special Forces firebase. It serves as a reasonable and justifiable basis for approval, based upon regulatory guidance, and supports the unanimous decision, made by the Board, to grant full relief based on this regulatory guidance. Approving this appeal would, in the opinion of the many combat-veteran parties who have reviewed the documentation available in context of the regulatory guidance, be the equitable course of action in this case. They, as does the applicant, strongly feel that support of the Board's unanimous decision is justified as outlined.

3. The applicant provides the following documents for the Board's consideration:

a. Standard Form 600, dated 21 December 2003, which shows an Afghan Soldier was wounded by a gun and a blast in his head, abdomen, and legs. The applicant signed the form as a Colonel (COL) in the Medical Corps along with two sergeants from the 82nd Airborne Division.

b. A picture showing the applicant in his combat gear working on an individual with other individuals in medical gear, a picture of the applicant in his dress uniform, a picture of Soldiers on an Army vehicle that states "start of attack", and a picture of Soldiers around a helicopter that states "med evac chopper".

c. Memorandum from the ABCMR, dated 12 May 2023, signed by the DASA states, the DASA reviewed the evidence presented, findings, conclusions, and Board member recommendations. Based upon the regulatory guidance on awarding the CMB, the lack of corroborative evidence to the applicant's statement showing he was involved in ground combat (for example, eyewitness accounts from fellow Soldiers), the DASA determined there was insufficient evidence of an error or injustice warranting award of the CMB. The DASA, therefore, overturned the Board's recommendation. The application submitted by the applicant was denied.

d. Letter from the Director, ABCMR, dated 15 May 2023, informed the applicant the Board voted to award the applicant the CMB; however, the DASA overturned the Board's recommendation and denied the applicant's request. The decision was final; however, the applicant could request reconsideration of the decision if he presented new evidence or argument that was not considered by the Board.

4. The applicant's service record contains the following documents:

a. Memorandum from U.S. Army Reserve Personnel Command, Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter), dated 10 October 2001, informed the applicant he had completed the required years of qualifying Reserve service and was eligible for retired pay, on application, at age 60.

b. National Guard Bureau (NGB) Form 337 (Oaths of Office), dated 6 September 2002, shows the applicant took the oath of office in the rank of COL in the KYARNG.

c. Memorandum Statement of Wartime Service, dated 14 January 2004, shows the applicant, in the rank of COL, deployed in support of Operation Enduring Freedom and was assigned to CJSOTF-A/3rd Battalion of the 3rd Special Forces Group from 10 December 2003 through 13 January 2004.

d. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant, as a member of the ARNG, entered active duty on 7 July 2003 in support of Contingency Operation Enduring Freedom. He served in a designated imminent danger pay area. He was honorably released from active duty on 19 February 2004. The DD Form 214 is void of award of the CMB.

e. DA Form 2-1 (Personnel Qualification Record) dated 9 December 2004, shows in item:

(1) 6 (Military Occupational Specialties) Primary 61J (General Surgeon) 19 April 1985, Secondary 61N (Flight Surgeon) 10 December 1985, and Additional 69P9B (Pediatrician) 20 February 1986.

(2) 9 (Awards, Decorations, and Campaigns) is void of the CMB.

(3) 35 (Record of Assignments) he was in the principal duty of Field Surgeon, with the KYARNG from 9 February 2002 until he was honorably separated on 10 March 2005.

f. Orders 069-855, published by Boone National Guard Center, dated 10 March 2005 honorably transferred the applicant to U.S. Army Reserve (USAR) Control Group (Reinforcement) effective 10 March 2005.

g. NGB Form 22 (Report of Separation and Record of Service) shows the applicant was honorably discharged from the ARNG on 10 March 2005. His primary specialty was a general surgeon and his secondary specialty was a flight surgeon. His NGB Form 22 is void of award of the CMB.

5. In the applicant's previous ABCMR Docket Number AR20210017440, dated 24 August 2022, the Board stated after reviewing the application, all supporting documents,

and the evidence found within the applicant's military records, the Board found that relief was warranted. The applicant's contentions, his military records, and regulatory guidance were carefully considered. The governing regulation provides that at separation, the servicemember's record will be used to enter accurate information when completing their DD Form 214. The Board determined that the evidence presented was sufficient for award of the CMB. The complete case has been provided to the Board for their complete review.

6. On 12 May 2023, the DASA (Review Boards) overturned the Board's recommendation and denied the applicant's request.

#### BOARD DISCUSSION:

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 applicant, a Medical Corps commissioned officer, served on active duty from 7 June 2003 to 19 February 2004. He states from 10 December 2003 to 13 January 2004, he was attached to the 3rd Special Forces Group (Airborne) as a Surgeon in support of combat operations at a Fire Base outside of the village of Deh Rawod in Uruzgan Province, Afghanistan.

a. Although the previous Board voted to grant relief, that Board did not explain how the applicant met the criteria for this badge as there was no corroborative evidence to the applicant's statement showing he was involved in ground combat (for example, eyewitness accounts from fellow Soldiers). As a result, the DASA (RB) determined there was insufficient evidence of an error or injustice warranting the awarding of the CMB and overturned the Board's recommendation.

b. In the current application, the applicant does not provide substantiating evidence that he met the criteria for the CMB. The Board noted that Army combat badges, such as the CMB and CIB, 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.

c. The CMB is not intended to recognize an individual for unit battle participation or deployment to a combat zone, such as Afghanistan. The CMB is designed to recognize medical personnel, whose daily mission is to perform medical duties while a unit is engaged in actual ground combat, provided they are personally present and under fire. The documents previously (and currently) provided by the applicant do not reflect he administered medical aid under specific circumstances of actual ground combat.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 AR20210017440 on 24 August 2022.

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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.

REFERENCES:

1. 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 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. The ABCMR members will direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists in the record.

2. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. Paragraph 8-7 states the CMB may be awarded to officers, warrant officers, and enlisted Soldiers of the Army Medical Department assigned or attached to the medical detachment of infantry regiments, infantry battalions, and elements thereof designated as infantry in tables of organization or tables organization and equipment. The CMB was designed to provide recognition to the field medic who accompanies the infantryman into battle and shares experiences unique to the infantry in combat. There was never any intention to award the CMB to all medical personnel who serve in a combat zone or imminent danger area. Its evolution stemmed from a requirement to recognize medical aidmen who shared the same hazards and hardships of ground combat on a daily basis with the infantry Soldier.

a. Eligibility requirements for award of the CMB are as follows:

(1) The CMB may be awarded to members of the Army Medical Department (colonel/O-6 and below), Naval Medical Department (captain/O-6 and below), and Air Force Medical Service (colonel/O-6 and below) assigned or attached by appropriate orders to an infantry unit of brigade, regiment, or smaller size, or to a medical unit of company or smaller size, organic to an infantry unit of brigade or smaller size during any period the infantry unit is engaged in actual ground combat on or after 6 December 1941. Battle participation credit alone is not sufficient; the infantry unit must have been in contact with the enemy.

(2) Award of the CMB will not be made to general or flag officers.

b. The following individuals are also eligible for the CMB:

(1) effective 19 December 1989, SF personnel possessing military occupational specialty 18D (SF medical sergeant) who satisfactorily perform medical duties while assigned or attached to a SF unit during any period the unit is engaged in active ground

combat, provided they are personally present and under fire. Retroactive awards under these criteria are not authorized prior to 19 December 1989;

(2) effective 16 January 1991, medical personnel assigned or attached to armor and ground cavalry units of brigade or smaller size who satisfactorily perform medical duties while the unit is engaged in actual ground combat, provided they are personally present and under fire. Retroactive awards under these criteria are not authorized prior to 16 January 1991.

(3) effective 11 September 2001, medical personnel assigned or attached to, or under operational control of any ground combat arms and combat aviation units of brigade or smaller size, who satisfactorily perform medical duties while the unit is engaged in actual ground combat, provided they are personally present and under fire. Retroactive awards under these criteria are not authorized prior to 11 September 2001;

(4) on or after 18 September 2001, medical personnel assigned or attached to, or under operational control of any ground combat arms or combat aviation units of brigade or smaller size, who satisfactorily perform medical duties while the unit is engaged in active ground combat, provided they are personally present and under fire. Retroactive awards under these criteria are not authorized for service prior to 18 September 2001; and

(5) effective 3 June 2005, Soldiers possessing military occupational specialty 18D are no longer eligible for award of the CMB.

c. The CMB may be awarded as follows:

(1) The sole criterion that qualifies medical personnel for award of the CMB is to be assigned or attached to an infantry, combat arms, or combat aviation unit engaged in active ground combat.

(2) Medical personnel, other than those medics organic to infantry units, may qualify only if they serve as medical personnel accompanying infantry, combat arms, or combat aviation units during combat operations. Conceivably, this could occur if a unit lost all its medics and, as a temporary or permanent measure, medical personnel were attached to an infantry, combat arms, or combat aviation unit but remained assigned to a hospital or other non-infantry unit.

//NOTHING FOLLOWS//