

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 June 2024

DOCKET NUMBER: AR20230011027

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the Bronze Star Medal (BSM)
- in item 26a (Non-pay Periods Time Lost) removal of entry "5-11 March 1966"

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

- DD Form 149 (Application for Correction of Military Record), 7 August 2023
- Counsel letter, undated
- Counsel statement, 12 July 2023
- SF 89 (Report of Medical History), dated 10 March 1966
- SF 88 (Report of Medical Examination), dated 11 March 1966
- BSM Citation, 1 January 1968 to 31 August 1968
- DA Form 4980-5 ((BSM)Certificate), 22 October 1968 (black and white and color)
- page 3 DA Form 20 (Enlisted Qualification Record)

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, through counsel, in effect:

a. He is an aging Vietnam Veteran with 100 percent (%) disability and one surviving child. He paid three years ago for research in search of his morning reports but did not receive them. His BSM was not added to his DD Form 214 as he received it 6 months after his discharge.

b. Records of his 7-day absence without leave (AWOL) at Fort Leonard Wood should be removed because he was held due to misfiled records that were to accompany him to next assignment at Fort Benning, GA. He was assigned to kitchen

patrol duty at Fort Leonard Wood until the records could be found. He was in Company B, 1st Battalion, 4th Sustainment Brigade (STB), U.S. Army Training Center, Fort Leonard Wood and the records were found at Company C.

d. His DA Form 20 shows he was enroute to Fort Benning, GA, on 5 March 1966 and on Fort Benning, GA on 12 March 1966, but he was not enroute on 5 March 1966 due to misplaced records. Medical records dated 10 March 1968 and 11 March 1968, show he was still at Fort Leonard Wood on those dates.

3. The applicant provided copies of:

a. A BSM certificate and citation for the period 1 January 1968 to 31 August 1968, showing the Commanding General awarded him the BSM for meritorious achievement in ground operations against hostile forces while he was assigned to the 101st Airborne Division.

b. Medical records, consisting of an SF 89 and SF 88 showing he underwent a medical examination and gave a report of medical history for the purpose of airborne training on 10 March 1966 and 11 March 1966 respectively. The dates of these documents have been hand-changed to read 10 March 1966 and 11 March 1966, respectively.

c. A DA Form 20, showing on 5 March 1966, his duty status changed to casual, enroute to Fort Benning, GA, for basic airborne training.

4. The applicant's records contain sufficient evidence to support an administrative correction to his DD Form 214 not requiring Board action and will be listed in the administrative notes section.

5. The Board will consider the applicant's request to correct his DD Form 214 to show the BSM and remove entries of time lost from his record; and as a separate issue, the Board will also consider the whether he qualifies for award of the Army Good Conduct Medal (1st Award) (AGCM) for his service during the period 18 October 1965 to 18 October 1968.

6. A review of the applicant's records shows:

a. On 18 October 1965, he enlisted in the Regular Army for a period of 3 years.

b. Special Orders Number 342, issued by Headquarters (HQ), U.S. Army Training Center, Armor, Fort Knox, dated 8 December 1965, awarded him the Expert Marksmanship Qualification Badge with Rifle Bar (M-14).

c. Special Orders Number 117, issued by Headquarters (HQ), 82nd Airborne Division, dated 24 May 1966, awarded him the Expert Marksmanship Qualification Badge with Rifle Bar (M-16).

d. A DA Form 2627-1 (Record of Proceedings Under Article 15, UCMJ) shows he accepted nonjudicial punishment under the provisions of Article 15 of the UCMJ for speeding on post at Fort Bragg on 13 October 1966. His punishment consisted of forfeiture of \$10.00. He did not appeal this punishment.

e. His DA Form 20 shows in:

(1) item 29 (Qualification in Arms) – his weapons qualifications, and qualification classes as Expert Marksmanship Qualification Badge with Rifle Bar (M-14) and (M-16).

(2) item 31 (Foreign Service) – U.S. Army Pacific Vietnam 20 November 1967 to 10 October 1968.

(3) item 33 (Appointments and Reductions) – no reductions.

(4) item 38 (Record of Assignments) – he received all "excellent" conduct and efficiency ratings, he was assigned to 326th Engineer Battalion while he was in Vietnam, and he participated in four campaigns while he was in Vietnam. It further shows his assignments between Basic Combat Training and Basic Airborne Training:

- 30 October 1965, Basic Combat Training, U.S. Army Training Center, Armor, Fort Knox
- 23 December 1965, Casual, Enroute to Fort Leonard Wood
- 7 January 1966, Construction Machine Operator, Fort Leonard Wood
- 5 March 1966, Casual, Enroute to Fort Benning
- 12 March 1966, Basic Airborne, 43d Company, 4th Student Battalion, Fort Benning

(5) item 41 (Awards and Decorations) – he was awarded or authorized:

- Parachutist Badge (Special Order Number 79, HQ, U.S. Army Training Center, Fort Benning, 6 April 1966)
- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)

(6) item 44 (Lost Time Under section 972, Title 10, United States Code, and Subsequent to Normal Date Expiration of Term of Service) – 7 days AWOL, 5 March 1966 to 11 March 1966.

f. On 18 October 1968, he was honorably released from active duty to control of the U.S. Army Reserve Control Group (Reinforcement). His DD Form 214 shows in:

(1) item 22a(1) (Net Service This Period) – 2 years, 11 months, and 24 days;

(2) item 24 – he awarded or authorized: National Defense Service Medal, Vietnam Service Medal, Republic of Vietnam Campaign Medal with Device (1960), Army Commendation Medal

(3) item 26a – 5 March 1966 to 11 March 1966; and

(4) item 30 (Remarks) – in part, 7 days lost time 5-11 March 1966.

7. The applicant's records are void of a commander's recommendation or orders awarding him the BSM and the AGCM (First Award).

8. A review of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any orders for the BSM and the AGCM (First Award) for the period 18 October 1965 to 18 October 1968.

BOARD DISCUSSION:

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

a. Bronze Star Medal: Grant. A review of his official records did not reveal any orders for the Bronze Service Medal. However, he provides a certificate indicating award of the Bronze Star Medal Certificate and citation for the period 1 January 1968 to 31 August 1968, showing the Commanding General awarded him the BSM for meritorious achievement in ground operations against hostile forces while he was assigned to the 101st Airborne Division. The certificate (and citation) is consistent with his duty assignment in Vietnam and his scope of responsibilities. Despite the absence of permanent orders, the Board accepted the certificate as sufficient evidence to add the Bronze Star Medal to his DD Form 214.

b. Lost Time: Deny. The applicant's service records indicate he was AWOL for 5 to 11 March 1966. By law and regulation, periods of AWOL, confinement, and desertion are considered lost time, which is not creditable service for pay, retirement, or veterans' benefits. The lost time is required to be listed on the DD Form 214 even if the periods of

time lost were later made up. The Board did not find evidence that this lost time is in error. Even if the applicant had made up this lost time, which the evidence does not support, the requirement to list the lost time on the DD Form 214 remains valid.

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.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
█	█	█	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the correction 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 adding to his DD Form 214 the Bronze Star Medal.

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 the removal of his lost time.

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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): The applicant's records contain sufficient evidence to support amendments of his DD Form 214 and should be administratively corrected to show in:

a. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized):

- four bronze service stars to his previously issued Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Parachutist Badge
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14) and (M-16)

b. Item 30 (Remarks): "Vietnam Service: 20 November 1967 to 10 October 1968."

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 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 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.

3. Army Regulation 600-8-22 (Military Awards) prescribes Department of the Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Bronze Star Medal is awarded in time of war for heroism and for 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.

(1) The Bronze Star Medal may be awarded for meritorious achievement or meritorious service to recognize single acts of merit or meritorious service.

(2) Award may be made to each service member of the Army, who after 6 December 1941, has been cited in orders or awarded a certificate for exemplary conduct in ground combat against an armed enemy between 7 December 1941 and 2 September 1947.

b. The Army Good Conduct Medal is awarded to on a selective basis to each Soldier who distinguishes himself or herself from among his or her fellow Soldiers by exemplary conduct, efficiency, and fidelity throughout a specified period of continuous enlisted active Federal military service. There is no right or entitlement to the medal until the immediate commander has approved the award and the award has been announced in permanent orders.

(1) The periods of service of qualifying service are: (1) each 3 years completed on or after 27 August 1940; (2) for the first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; (3) for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year; (4) for the first award only, upon termination of service on or after 27 June 1950 of less than 1 year when final separation was by reason of physical disability incurred in line of duty; or (5) for the first award only, for those individuals who died before completing 1 year of active Federal military service or if the death occurred in the line of duty.

(2) Throughout a qualifying period of service, the enlisted Soldier's character must have been above reproach and must meet all of the following criteria for award of the Army Good Conduct Medal as indicated in the Soldier's record: willingly complied with the demands of the military environment, been loyal and obedient to his or her superiors, faithfully supported the goals of his or her organization and the Army, and conducted himself or herself in an exemplary manner as to distinguish him or her from fellow Soldiers.

4. Army Regulation 672-5-1 (Decorations and Awards), in effect at the time, stated the Army Good Conduct Medal (AGCM) was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for the first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

5. Army Regulation 600-8-104 (Army Military Human Resource Records Management) prescribes the policies and mandated operating tasks for the Army Military Human Resource Records Management Program. It states that once placed in the OMPF, now known as AMHRR or moved to another part of the AMHRR unless directed by competent authority. The AMHRR is the historical and authoritative source for authentication of veteran or service related benefits, entitlements, and services. There is no provision for changing the information contained in the AMHRR, such as on an enlisted record brief or a personnel qualification record once a Soldier separates from service.

6. Army Regulation 635-5 (Separation Documents), in effect 1 February 1967, prescribed the separation documents that would be furnished each individual who was separated from the Army including Active Duty Training personnel and established standardized procedures for the preparation and distribution of these documents. All available records would be used as a basis for the preparation of the DD Form 214, including DA Form 20, DA Form 66, and orders.

a. In item 24: enter from item 21, DA Form 66 (Officer Qualification Record), or section 9, DA Form 20 (Enlisted Qualification Record) all decorations, service medals, campaign credits, and badges awarded or authorized, omitting authorities cited therein. There is no provision for entering Certificates of Appreciation in item 24 of the DD Form 214.

b. In item 25a: Enter inclusive dates of non-pay periods/time lost during the preceding 2 years.

c. In item 30(13) (Remarks) if the individual lost any time prior to normal ETS as indicated in section 6, DA Form 20, enter the total number of days lost with inclusive dates. Example: "4 days lost under 10 U.S.C. 972 from 10 Nov 58 through 13 Nov 58." For enlisted personnel, the inclusive periods of time lost to be made good under Title 10, U.S. Code, section 972, and periods of non-inclusive time after ETS will be entered. Time lost under Title 10, U.S. Code, section 972, is not creditable service for pay, retirement, or veterans' benefits; however the Army preserves a record of it (even after it has been made up) to explain which service between the date of entry on active duty and the date of separation is creditable service.

7. DA PAM 672-3 (Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register (January 1960 – February 1986)) shows the applicant completed service in Vietnam during the following campaigns:

- Vietnam Counteroffensive, Phase III, 1 June 1967 – 29 January 1968
- TET Counteroffensive, 30 January 1968 – 1 April 1968
- Vietnam Counteroffensive, Phase IV, 2 April 1968 – 30 June 1968

- Vietnam Counteroffensive, Phase V, 1 July 1968 – 1 November 1968

8. Department of the Army General Orders Number 8, 19 March 1974, confirmed award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Military Assistance Command, and its subordinate units during the period 8 February 1962 to 28 March 1973 and to Headquarters, U.S. Army Vietnam, and its subordinate units during the period 20 July 1965 to 28 March 1973.

//NOTHING FOLLOWS//