

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 May 2024

DOCKET NUMBER: AR20230011110

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- his deployment to Iraq
- any awards or medals authorized for his deployment to Iraq in support of Operation Iraqi Freedom (OIF)
- Army Good Conduct Medal (AGCM)
- Overseas Service Ribbons (OSR) (2nd Award)
- Meritorious Service Medal (MSM)
- any awards authorized for his time in service, to include basic training.
- 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)
- Applicant Statement

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, in effect, he would like his DD Form 214 to correctly reflect his accomplishments while serving in the U.S. Army. His DD Form 214 does not reflect that he went to Iraq from 2005 to 2006. He deployed to Iraq with A Company, 1st Battalion, 377th Field Artillery Regiment (FAR), Fort Bragg, NC. His first sergeant (1SG), at that time, was 1SG A\_M\_. He was also given one AGCM, three ribbons and one medal for OIF, two OSRs, four ribbons from basic training, and one MSM. He received most of these medals/awards while serving with A Company, 1st Battalion, 377th FAR, which is currently based in Washington and disbanded from the XVII Airborne Corps at Fort Bragg, NC. He states that if his former 1SG has the medals/awards, then he should have them as well because he served in his battery during that time. He was also based

at Camp Al-Asad, which is roughly one hour and 45 minutes to two hours and 30 minutes from Camp Ramadi.

3. The Board will not consider the applicant's request to show his deployment to Iraq, any awards or medals authorized for his deployment to Iraq in support of OIF, or the OSR (2nd Award), as these items will be addressed through an administrative correction.

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

a. He enlisted in the Regular Army on 14 September 2004. He held military occupational specialty 13B, Canon Crewmember.

b. His Enlisted Record Brief (ERB) contains the following information:

- Section I (Assignment Information Overseas/Deployment Combat Duty):  
None
- Section VIII (Awards and Decorations): does not list the AGCM, MSM, or the OSR (2nd Award). It shows: Army Achievement Medal (AAM) (3rd Award), National Defense Service Medal (NDSM), Global War on Terrorism Service Medal (GWOTSM), Army Service Ribbon (ASR), and OSR
- Section IX (Assignment Information):
  - 31 May 2005 – 8 June 2005: Headquarters and Headquarters Battery, 1st Battalion, 377th FAR, Fort Bragg, NC
  - 9 June 2005 – 25 April 2007: A Company, 1st Battalion, 377th FAR, Fort Lewis, WA
  - 21 May 2007 – 14 June 2009 – Camp Casey, Korea

c. On 8 December 2009, the applicant was reported in an absent without leave (AWOL) status and on 7 January 2010, he was dropped from the rolls as a deserter. He was apprehended by civil authorities on 21 June 2010.

d. On 6 July 2010, the applicant was arrested and later convicted (10 February 2011) by the State of [Name of State] of one count of breaking and entering and one count of larceny after breaking/entering, possession of stolen property/goods.

e. On 28 June 2011, court-martial charges were preferred against the applicant for one specification of being AWOL) from 8 December 2009 to 21 June 2010

f. On 11 July 2011, the applicant was again reported in an AWOL status and on 12 July 2011, he was dropped from the rolls as a deserter. He was apprehended by civil authorities on 10 December 2011.

g. On 4 January 2012, court-martial charges were preferred against the applicant for one specification of being absent without leave (AWOL) from 8 December 2009 to 21 June 2010 (apprehended) and 11 July 2011 to 10 December 2011 (apprehended).

h. On 26 January 2012, the applicant requested under chapter 10 of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) in lieu of trial by court-martial.

i. The separation authority approved his requested and ordered his discharge d from active duty with an under other than honorable conditions discharge.

j. On 14 February 2012, he was discharged from active duty with an under other than honorable conditions characterization of service. His DD Form 214 shows he completed 5 years, 9 months, and 15 days of active service during the covered period. His DD Form 214 shows in:

- Item 12a (Date Entered Active Duty This Period): 14 September 2004
- Item 12f (Foreign Service): None
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): does not list the AGCM, MSM, or the OSR.
- Item 28 (Narrative Reason for Separation): In Lieu of Trial by Court-Martial
- Item 29 (Dates of Time Lost During This Period): 20091208 – 20110224; 20110711 – 20111209.

5. The applicant's records do not reflect orders awarding him the AGCM, nor does his record contain evidence showing he was recommended or awarded the MSM.

6. On 2 November 2023, a member of the Defense Finance Accounting Services staff provided an email verification which confirmed the applicant deployed to Kuwait/Iraq from 5 November 2005 to 31 October 2006 (11 months and 27 days).

#### 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.

a. Award of the Meritorious Service Medal requires a formal recommendation, approval through the chain of command, and announcement in orders. The Board did not find evidence that shows the applicant was recommended for or awarded the Meritorious Service Medal.

b. The applicant enlisted in the Regular Army on 14 September 2004 to 14 February 2012. The Board noted no derogatory information in his files during the first 3 years of continuous active service. His misconduct (AWOL, DFR) did not start until 8 December 2009. Due to absence of derogatory information on file or a commander’s disqualification memorandum, the Board determined the applicant met the criteria for award of the Army Good Conduct Medal (1st Award) for the periods 14 September 2004 through 13 September 2007.

3. 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 relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- Awarding the applicant the Army Good Conduct Medal for service during the period 14 September 2004 through 13 September 2007
- Adding awards of the Army Good Conduct (1st Award) to his DD Form 214

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 Meritorious Service Medal.



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): administratively correct the applicant's DD Form 214 for the period ending 14 February 2012 without action by the Board to add:

- Item 12f (Foreign Service): 11 months and 27 days
- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): Overseas Service Ribbon (2nd Award), Iraq Campaign Medal with two bronze service stars, and Korea Defense Service Medal
- Item 18 (Remarks): Service in Kuwait/Iraq from 5 November 2005 to 31 October 2006

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 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It states:

a. The Overseas Service Ribbon was established by the Secretary of the Army on 10 April 1981 and awarded to Servicemembers of the U.S. Army for successful completion of overseas tours. Effective 1 August 1981, all Servicemembers of the Active Army, Army National Guard, and USAR in an active Reserve status are eligible for this award. The ribbon may be awarded retroactively to those personnel who were credited with a normal overseas tour completion before 1 August 1981 provided, they had an Active Army status as defined above on or after 1 August 1981. Numerals will be used to denote second and subsequent awards of the OSR. Soldiers must be credited with a normal overseas tour completion in accordance with Army Regulation 614–30.

b. The Army Good Conduct Medal is awarded to individuals who distinguish themselves by their conduct, efficiency, and fidelity during a qualifying period of active duty enlisted service. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of Federal military service. Although there is no automatic entitlement to the Army Good Conduct Medal, disqualification must be justified. While any record of nonjudicial punishment could be in conflict with recognizing the Soldier's service as exemplary, such record should not be viewed as automatically disqualifying. The commander analyzes the record, giving consideration to the nature of the infraction, the circumstances under which it occurred, and when. Conviction by courts-martial terminates a period of qualifying service; a new period begins the following day after completion of the sentence imposed by the court-martial. Individuals for whom a bar to reenlistment has been approved are not eligible for award of the Army Good Conduct Medal. Disqualification for an award of the Army Good Conduct Medal can occur at any time during a qualifying period.

c. The Meritorious Service Medal is awarded to any Servicemember of the Armed Forces of the United States or to any member of the armed forces of a friendly foreign nation who has distinguished himself or herself by outstanding meritorious achievement of service.

d. The Iraq Campaign Medal (ICM) is authorized for individuals who served in direct support of Operation Iraqi Freedom or Operation New Dawn. The area of eligibility (AOE) encompasses all land area of Iraq and above the contiguous water area out to 12 nautical miles. The ICM period of eligibility is on or after 19 March 2003 to 31 December 2011. Service members must have been assigned, attached, or mobilized to units operating in the AOE for 30 consecutive days or for 60 nonconsecutive days or meet one of the following criteria:

(1) Be engaged in combat during an armed engagement, regardless of the time in the AOE.

(2) While participating in an operation or on official duties, is wounded or injured and requires medical evacuation from the AOE.

(3) While participating as a regularly assigned air crewmember flying sorties into, out of, within, or over the AOE in direct support of the military operations; each day of operations counts as 1 day of eligibility.

e. Korea Defense Service Medal is authorized for award to members of the Armed Forces of the United States who have served on active duty in support of the defense of the Republic of Korea. The period of eligibility is 28 July 1954 to a date to be determined by the Secretary of Defense. Only one award of the Korea Defense Service Medal is authorized for any individual.

3. Army Regulation 614-30 (Overseas Service) prescribes policies pertinent to overseas permanent change of station moves, overseas tour lengths, overseas tour curtailments, time-on-station, eligibility for overseas service criteria, voluntary and involuntary overseas tour extension, the Overseas Extension Program, and consecutive overseas tours. It provides that Soldiers must be credited with a normal overseas tour completion in accordance with Army Regulation 614-30. Table 3-2 (Award of tour credit), Rules 6 and 8 apply:

a. Rule 6: A minimum of 11 cumulative months in a TCS/TDY status during any 24-month period in areas where the unaccompanied tour length is designated as 12 to 18 months, or in isolated areas where tour lengths have not been established by the Department of Defense (DOD).

b. Rule 8: Nine months in a continuous TCS/TDY status in areas where the unaccompanied tour length is up to 18 months, or in isolated areas where tour lengths have not been established.

4. 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 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.

//NOTHING FOLLOWS//