

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 November 2024

DOCKET NUMBER: AR20230011252

APPLICANT REQUESTS:

- in effect, correction of his military service record to show the award of 32 Air Medals
- 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)
- Counsel's letter to State Department of Veterans Affairs (VA)
 - Exhibit A1 – DA Form 759-1 (Individual Flight Record and Flight Certificate – Army, Part II)
 - Exhibit A2 – DA Form 759 (Individual Flight Record and Flight Certificate – Army, Part I)
 - Exhibit B – Headquarters, 1st Aviation Brigade General Orders (GO)
 - Exhibit C – DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) and DD Form 215 (Correction to DD Form 214)
 - Exhibit D-2 – Record of Proceedings (ROP) for Army Board for Correction of Military Records (ABCMR) Docket Number AR20150005765 and extract from ROP for ABCMR Docket Number AR2001062933
- Eight DA Forms 759-1
- DA Form 759
- U.S. Senator Privacy Release Form
- Two emails
- U.S. Senator's letter to the Army Review Boards Agency (ARBA)

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 was a pilot during the Vietnam War, and the Army initially gave him one Air Medal for completing 50 flight hours; the award covered the period 9 to 19 January 1969. He subsequently received no further recognition for the remaining 142 days and 1,181 of combat flight hours he performed.

a. In 2017, the U.S. Army Human Resources Command (HRC) awarded him 8 additional Air Medals (total 9 awards) based on 216 category I missions; (during Vietnam, the U.S. Army, Vietnam (USARV) defined category I missions as those performed in an assault role against a hostile force and characterized by the delivery of ordnance, troops, or supplies in a combat operations area).

b. The applicant argues that HRC erred because it did not apply the correct regulation; during the applicant's Vietnam service, the regulation pertaining to the award of the Air Medal was USARV Regulation 672-1 (Decorations and Awards), dated February 1968. The applicant additionally points out that, when he was in Vietnam, the Army only recorded flight hours and not the number of missions flown.

c. Without providing a copy of the regulation, the applicant cites the February 1968 version of USARV Regulation 672-1 and contends the following criteria applied to the award of the Air Medal:

- Category I missions – 25 hours
- Category II missions (i.e., support rendered to friendly forces immediately before, during, or after a combat operation) – 50 hours
- Category III missions (support not connected to an immediate combat operation) – 100 hours

d. HRC failed to interpret the regulation properly, and to support his contention, the applicant points to the ROP for ABCMR Docket Number AR2001092933, dated in February 2002. In that case, the applicant served in a support company and flew heavy lift helicopters like the Chinook CH-47; units like that were rarely involved in combat assault missions.

e. The applicant adds that he is seeking this records correction because he has joined an honor guard that conducts military funerals for fallen Veterans; in that capacity, the applicant wears the uniform for his branch of service, and he wants to display all of the awards he earned.

3. The applicant provides:

a. Letter, dated 25 April 2022 and from Major General (MG) (Retired (R)), H__ D__ (the applicant's attorney); the letter is addressed to the applicant's State VA.

(1) MG (R) D__ writes that the applicant has been trying unsuccessfully to correct the number of Air Medals awarded while in Vietnam, and, short of applying to the ABCMR, both MG (R) D__ and the applicant have exhausted all other avenues for relief. "Bottom Line, plain and simple, the error that has been referred to is caused by the application of the wrong Army Regulation (AR)."

(2) "Under the AR in effect during his tour, the Air Medal was awarded for both Combat Support hours and Combat Assault hours. You were awarded one (1) Air Medal for every 25 hours of Combat Assault time and one (1) Air Medal for every 50 hours of Combat Assault time. Chief Dykes' assault time was about 30 percent to 35 percent and his support time and about 65 percent to 70 percent of flight time." The applicant received one Air Medal, and the orders listed the authorizing regulation as "USARV Reg. 672-1"; this is the regulation that should have been applied.

(3) "[Applicant] is not seeking any more than that which he earned, the appropriate number of Air Medals for his Vietnam Service...That number of awards should be, using the split in percentages, around 32. At a minimum, around 25 without the split and using just the 50 hour combat support for the entire time he was flying, which we know was not the case."

b. DA Forms 759 and 759-1, prepared in 1971, which state the applicant completed 1,231 hours of pilot combat time.

c. Extracts of two ROPs, respectively taken from ABCMR Docket Numbers AR2001062933 and AR20150005765.

(1) AR2001062933 – the applicant in this case provided DA Forms 759-1, showing that, effective 8 June 1969, he had participated in 50 hours of aerial flight; the forms additionally indicated that, on 28 July 1970, the flight records were closed and reflected a total of 538 hours in identical mission aerial hours. The Board stated:

(a) "USARV) Regulation 672-1 provided guidance for award of the Air Medal during the applicant's service. The regulation provided for award of the initial Air Medal and subsequent awards for sustained operations by flight crewmembers who completed a minimum of 50 hours of flight time while engaged in certain type missions."

(b) Given that the applicant's initial award of the Air Medal was based on the completion of 50 hours and he ultimately accumulated more than 500 hours, "it appears that the applicant is entitled to ten awards of the Air Medal."

(2) AR20150005765 – this was a reconsideration of an applicant's earlier request pertaining to the award of Air Medals.

(a) In this applicant's initial considerations, the Board awarded a total of 74 Air Medals; however, the applicant maintained the number of Air Medals awarded was too high. Although the Board determined that the applicant's DA Form 759-1 showed he had flown 1,862 hours under a mission symbol of "C" (combat), the applicant stated the correct number of combat flight hours was 986; as such, the number of awards should be reduced.

(b) The criteria for the Air Medal in USARV 672-1 included both the number of missions and the number of flight hours, but since the applicant's record did not explicitly break out the number of missions and the respective flight hours by category (i.e., Categories I through III), the Board presumed all were Category I. In reviewing those DA Forms 759-1 again, the Board determined the applicant flew on a total of 171 days, and, again, because the record did not specify, the Board presumed the number of days equated to the number of missions.

(c) Based on the applicant flying a total of 171 days (and equating this to 171 missions), and also assuming those missions were all Category I, the result was 6 Category I missions flown (171 missions / 25 Category I missions = 6.84). "The Air Medal, when properly credited, is awarded based on the combination of flight hours and missions resulting normally in a lower number of Air Medals. As the previous Board's decision only took into consideration the number of flight hours flown, it erred in its calculation and awarded more Air Medals than authorized by regulation."

(d) The Board voted to grant relief for this request by revoking the previous Permanent Orders awarding the 2nd through the 74th Air Medal and reissuing a Permanent Order showing the award of Air Medal (2nd through 6th Award).

d. Email dated 18 July 2023 and addressed to a representative for the applicant's U.S. Senator. The applicant comments on an ABCMR case (apparently AR20150005765) and argues:

(1) "The pilot flew in Vietnam for 9 months and his records indicated he flew 1862 flight hours. He was awarded 72 air medals by the board. He knew this was not correct because he knew he only flew 900+ hours which is about right because you often needed clearance from the flight surgeon to exceed 120 hours in a month and surely not average 200 per month for 9 months."

(2) "His 9 months were with 2 different units and the Army counted his flight hours twice. On appealing the 72 air medals award, they awarded him 5 based on days

flown and 1862 flight hours, because the records show he flew 1862 hours in 9 months. He expected about 35 at most and that is if all hours flown were Combat Assault."

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

a. On 2 December 1968, following a brief term of enlisted service and the successful completion of warrant officer flight training, the applicant executed his oath of office as a U.S. Army Reserve (USAR) warrant officer one (WO1). Effective 29 December 1968, orders transferred him to Vietnam and further assigned him to the 92nd Assault Helicopter Company, 1st Aviation Brigade; he arrived at his new unit, on or about 9 January 1969.

b. On 10 February 1969, GO awarded him the Air Medal (1st Award) for the period 9 to 19 January 1969; for that period, the applicant's DA Form 759-1 reflects the completion of 50.9 flight hours, all with mission symbol "C".

c. On 1 July 1969, the applicant's unit completed a DA Form 759, with six corresponding DA Forms 759-1. The DA Form 759 reflected the applicant's pilot experience during the period January to June 1969 and stated the applicant had completed 566 hours of pilot combat time; the accompanying DA Forms 759-1 listed all flying hours with the mission symbol of "C" for combat.

d. On or about 25 December 1969, the applicant's unit prepared a DA Form 759 for the period July through December 1969; the comments stated, "Records closed this station 25 December 1969. Officer PCS (permanent change of station) to Ft. Rucker, Ala, UP (under the provisions of) SON (Special Order Number) 326." Item 19 (Pilot Combat Time) indicates 1,231 hours flown. The three DA Forms 759-1 linked to the DA Form 759 list all flights with the mission symbol "C."

e. On 26 December 1969, the applicant completed his tour in Vietnam and orders reassigned him to Fort Rucker, AL (later renamed Fort Novosel); he arrived at his unit, on 22 January 1970. On 1 June 1971, the Army honorably released the applicant from active duty and transferred him to the USAR for the remainder of his military service obligation.

f. On 18 August 2017, HRC Awards and Decorations Branch sent a letter to the applicant's U.S. Representative stating, in response to the U.S. Representative's 15 August 2017 letter, and following a review of the applicant's service records, HRC verified the applicant's entitlement to the Air Medal with Numeral "9." HRC issued the applicant a DD Form 215 to reflect this correction.

5. USARV Supplement 1 to AR 672-5-1 (Awards), in effect at the time, provided further awards guidance, concurrent with USARV Regulation 672-1. With regard to the submission of Air Medal awards recommendations, the supplement stated:

a. "For personnel on flying status as crew or non-crewmembers, recommendations for award of the Air Medal will be submitted in duplicate on USARV Form 157-R (Recommendation for Decoration for Valor or Merit, dated 22 December 1966). USARV Form 131 (Awards and Qualification Record (Air Medal), dated 1 August 1966) is not required. The following entry will be made item 18 (Narrative description) on USARV Form 157-R:"

(1) "(NAME) is presently on flying status with this organization and has met the required number of missions and hours for award of the Air Medal, as prescribed in USARV Suppl 1 to AR 672-5-1. I certify that the flight records of this organization confirm and will support this recommendation."

(2) "Recommendations for award of the Air Medal for sustained operations for personnel not on flying status will be submitted in duplicate on USARV Form 157-R, accompanied by USARV Form 131." (The USARV Form 131 consisted of eight columns, under which the certifying/recommending official listed the prospective awardee's type of aircraft flown, mission-type performed, number of flight hours, and number of missions).

b. "Recommendations for multiple awards the Air Medal for sustained operations to an individual may be made on the same USARV Form 157-R. List each recommended award separately, followed by the inclusive dates for each." "Since missions, not days, are the criteria for subsequent awards, the ending date for one award of the Air Medal and the beginning date for the next award may be the same day (i.e., if sufficient missions are accrued in the morning of a particular day for award of the Air Medal, missions flown in the afternoon may begin to accrue for the subsequent award). Missions and hours accrued in excess of the number for one award will be carried forward and applied to the hours and mission accrued for the next subsequent award."

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.

(1) 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).

(2) 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. 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 evidence of record shows the applicant served in Vietnam from 29 December 1968 to 26 December 1969. His DA Forms 759 show his completed flight hours; however, the category of missions are not listed on these forms. Regulatory guidance states recommendations for award of the Air Medal for crewmembers or non-crewmembers on flying status would be submitted on USARV Form 157-R. The recommendation for award must also have stated that the individual met the required number of missions and hours for award of the Air Medal. Because the type of missions is not listed, the Board found insufficient evidence to support awarding him the Air Medal.

2. 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:

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.

REFERENCES:

1. Title 10, USC, 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. 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.

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

(1) 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.

(2) 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.

(3) 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.

b. 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).

(1) 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.

(2) 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.

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, effective 1 July 1969 and superseding the version dated 21 February 1968, 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

5. USARV Supplement 1 to AR 672-5-1, in effect at the time, outlined procedures for submitting Air Medal awards recommendations.

a. "For personnel on flying status as crew or non-crewmembers, recommendations for award of the Air Medal will be submitted in duplicate on USARV Form 157-R (Recommendation for Decoration for Valor or Merit, dated 22 December 1966). USARV Form 131 (Awards and Qualification Record (Air Medal), dated 1 August 1966) is not required. The following entry will be made item 18 (Narrative description) on USARV Form 157-R:"

(1) "(NAME) is presently on flying status with this organization and has met the required number of missions and hours for award of the Air Medal, as prescribed in USARV Suppl 1 to AR 672-5-1. I certify that the flight records of this organization confirm and will support this recommendation."

(2) "Recommendations for award of the Air Medal for sustained operations for personnel not on flying status will be submitted in duplicate on USARV Form 157-R, accompanied by USARV Form 131." (The USARV Form 131 consisted of eight columns, under which the certifying/recommending official listed the prospective awardee's type of aircraft flown, mission-type performed, number of flight hours, and number of missions).

b. "Recommendations for multiple awards the Air Medal for sustained operations to an individual may be made on the same USARV Form 157-R. List each recommended award separately, followed by the inclusive dates for each." "Since missions, not days, are the criteria for subsequent awards, the ending date for one award of the air medal and the beginning date for the next award may be the same day (i.e., if sufficient missions are accrued in the morning of a particular day for award of the Air Medal, missions flown in the afternoon may begin to accrue for the subsequent award). Missions and hours accrued in excess of the number for one award will be carried forward and applied to the hours and mission accrued for the next subsequent award."

6. AR 95-4 (Aviation – Flying Time, Duty, Transition Training, Proficiency Aircrew Checklist, and Multiengine Operations), in effect at the time, defined flying missions and symbols to be used in aviation forms, to include the DA Form 759 and DA Form 759-1. Flying missions were classified and symbolized as follows:

- Training-"T" – Missions flown for the purpose of review of fundamentals and tactical flight training of pilots and crews to meet proficiency requirements and annual minimums
- Combat-"C" – Missions flown against the enemy and within the range of the enemies countermeasures, such as ground and fighter aircraft
- Service-"S" – Missions with purposes other than training or combat, such as administrative courier service

7. AR 95-64 (Aviation – Individual Flight Record and Flight Certificate – Army), in effect at the time, prescribed policies and procedures for the completion of DA Forms 759 and 759-1.

a. DA Form 759, section I (Summary of Pilot Experience) was to show the total accumulation of all pilot experience transcribed from all individual flight records on file. Item 19 (Pilot Combat Time) listed the pilot's actual combat time, from the other entries in section I.

b. DA Form 759-1 detailed the pilots flying times, listing mission symbol (with "C" indicating combat) and flight hours spent as an aircraft commander, instructor pilot, or first pilot. The totals reflected in item 33 (Totals to Date) were to show a cumulative number of flight hours for the period of the associated DA Form 759.

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

a. The ABCMR decides cases on the evidence of record; it is not an investigative body.

(1) 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).

(2) 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.

//NOTHING FOLLOWS//