

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 July 2024

DOCKET NUMBER: AR20230012009

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show award of the Distinguished Service Medal (DSM)
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 31 March 2005
- DSM Certificate
- DSM Citation

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 at the time of retirement, he was presented with the DSM, but the medal did not make it to his records. He believes the record should be corrected because the DSM is the highest medal earned during his 40 years of service and it should be reflected in his service record.
3. The applicant provides:
 - a. The DSM Certificate, which shows the applicant was awarded the DSM for exceptionally meritorious service for the period of 18 August 2001 through 13 August 2005. Signed by the Chief of Staff and Secretary of the Army on 14 July 2005.
 - b. The DSM citation, which shows the applicant was awarded the DSM for exceptionally meritorious service in positions of greater responsibility, the applicant was the principal guiding force during a period of unprecedented intensity, his people

oriented leadership and steady handed mentorship steered the Division and Brigades through an era of uncertainty and change with his keen vision of the future and his ability to focus on positioning the 91st Division to be an integral partner in the Global War on Terrorism.

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

a. He entered active duty on 1 February 2003.

b. He was honorably released from active duty on 31 March 2005. His DD Form 214 shows he completed 2 years and 2 months of active service with 3 years, 10 months, and 15 days of prior active service, and 32 years, 10 months, and 3 days of total prior inactive service. Block 11 (Primary Specialty) shows he served as the Commanding General for 2 years and 2 months. It also shows he was awarded or authorized:

- Legion of Merit
- Meritorious Service Medal (6th Award)
- Army Commendation Medal (2nd Award)
- Army Achievement Medal
- Presidential Unit Citation (Army-Air Force)
- Army Reserve Components Achievement Medal (9th Award)
- National Defense Service Medal (3rd Award)
- Global War on Terrorism Service Medal
- Armed Forces Reserve Medal with M Device
- Republic of Vietnam Campaign Medal with Device (1960)
- Armed Forces Reserve Medal with 10 Year Device (3rd Award)
- Army Service Ribbon
- Army Good Conduct Medal
- Overseas Service Bar (2nd Award)
- Combat Infantryman Badge
- Parachutist Badge
- Ranger Tab
- Special Forces Tab
- Republic of Vietnam Parachutist Badge

5. By regulation (AR 15-185), 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.

6. By regulation (AR 600-8-22), the Distinguished Service Medal is awarded to any person who, while serving in any capacity with the U. S Army, has distinguished himself or herself by exceptionally meritorious service to the Government in a duty of great responsibility. The performance must be such as to merit recognition for service which is clearly exceptional.

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 warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant served on active duty from 1 February 2003 to 31 March 2005. His DD Form 214 shows he completed 2 years and 2 months of active service with 3 years, 10 months, and 15 days of prior active service, and 32 years, 10 months, and 3 days of total prior inactive service. The Primary Specialty block shows he served as the Commanding General for 2 years and 2 months. There are no orders for the Distinguished Service Medal (DSM). However, he provides a Certificate, which shows he was awarded the DSM for exceptionally meritorious service for the period of 18 August 2001 through 13 August 2005, signed by the Chief of Staff and Secretary of the Army on 14 July 2005. The Board found the citation is commensurate with the applicant's assignment, period of service, and scope of responsibility, and accepted this certificate as sufficient evidence to add the DSM to his DD Form 214.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 adding the Distinguished Service Medal to his DD Form 214 ending on 31 March 2005.

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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, 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 (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.

3. Army Regulation 600-8-22 (Military Awards) states the Distinguished Service Medal is awarded to any person who, while serving in any capacity with the U. S Army, has distinguished himself or herself by exceptionally meritorious service to the Government in a duty of great responsibility. The performance must be such as to merit recognition for service which is clearly exceptional. Exceptional performance of normal duty will not alone justify an award of this decoration. For service not related to actual war, the term "duty of great responsibility" applies to a narrower range of positions than in time of war and requires evidence of conspicuously significant achievement. However, justification of the award may accrue by virtue of exceptionally meritorious service in a succession of high positions of great importance. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

//NOTHING FOLLOWS//