

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 July 2024

DOCKET NUMBER: AR20230012241

APPLICANT REQUESTS: correction of his DD Form 214 to show:

- two bronze service stars to his previously awarded Vietnam Service Medal
- rank of specialist (SPC)/E-4

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

- DD Form 149 (Application for Correction of Military Record)
- Unit Orders Number 55, 7 December 1966

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 provides Unit Orders Number 55 issued by Company C, 3d Battalion, 22nd Infantry Regiment, dated 7 December 1966, that shows he was promoted to the rank of SPC/E-4.
4. A review of the applicant's service record shows:
 - a. He was inducted into the Army of the United States on 21 December 1965. His DA Form 20 (Enlisted Qualification Record) shows in:
 - (1) Item 31 (Foreign Service): 22 Sep 66 – 24 Sep 67; USARPAC – Vietnam
 - (2) Item 33 (Appointments and Reductions):
 - PVT/E-1 – 21 December 1965
 - PVT/E-2 – 21 April 1966
 - PFC//E-3 – 7 August 1966
 - SPC/E-4 – 7 December 1966

- PFC/E-3 – 29 May 1967

(3) Item 38 (Record of Assignments):

- Company C, 3d Battalion, 22d Infantry Regiment, 4th Infantry Division (22 September 1966 – 15 July 1967)
- Company A, 1st Battalion, 27th Infantry Regiment, 25th Infantry Division (16 July 1967 – 24 September 1967)

(4) Item 41 (Awards and Decorations)

- National Defense Service Medal
- Vietnam Service Medal
- Combat Infantryman Badge
- Vietnam Campaign Medal
- one overseas service bar
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Sharpshooter Marksmanship Qualification Badge with Machine Gun Bar
- Marksman Marksmanship Qualification Badge with Rifle Bar (AR)

b. Special Court-Martial Order Number 11 issued by 3d Battalion, 22d Infantry Regiment on 29 May 1967 shows that the applicant was found guilty of violating the Uniform Code of Military Justice (UCMJ), on or about 27 March 1967, by sleeping upon his post while as a sentinel. He was sentenced to reduction to the grade of private first class/E-3 and to forfeit \$80.00 pay per month for a period of 2 months.

c. Special Orders Number 267 issued by Headquarters, U.S. Army Personnel Center on 24 September 1967, released the applicant from active duty and transferred him to the U.S. Army Reserve (USAR).

d. On 24 September 1967, he was honorably released from active duty. His DD Form 214 shows he completed 1 year, 9 months, and 4 days of active service. It also shows in:

- item 5a (Grade, Rate or Rank): PFC (P) [Permanent]
- item 5b (Pay Grade): E-3
- item 6 (Date of Rank): 29 May 1967
- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):

- National Defense Service Medal

- Vietnam Service Medal
- Vietnam Campaign Medal
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)
- Sharpshooter Marksmanship Qualification Badge w/Rifle Bar (M-14/16)
- Combat Infantryman Badge

5. By regulation, when a person is reduced in grade as a result of an unsuspended reduction, his or her date of rank in the grade to which reduced is the date the punishment of reduction was imposed.

BOARD DISCUSSION:

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 service stars: Grant. The applicant participated in two campaigns during his service in Vietnam. Therefore, he qualifies for two bronze service stars to be affixed to his already-awarded Vietnam Service Medal.

b. Grade: Den. The evidence of record shows the applicant was promoted to SP4/E-4 on 7 December 1966. However, he was convicted by a court-martial that sentenced him to reduction to PFC/E-3 on 27 May 1967. The Board found no evidence of the applicant being promoted back to SP4/E-4 between the date of his reduction and the date of his release from active duty. He held the rank/grade of PFC/E-3 at the time of separation. Therefore, based on a preponderance of evidence, the Board determined that the rank/grade the applicant received upon separation was not in error or unjust.

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 two bronze service stars to his already awarded Vietnam Service 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 his grade of SPC/E-4.



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 service records contain evidence substantiating the following administrative corrections to the applicant's DD Form 214 without Board action: add the following awards:

- Meritorious Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation
- Sharpshooter Marksmanship Qualification Badge with Machine Gun Bar

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 (AR) 27-10 (Military Justice) prescribes the policies and procedures pertaining to the administration of military justice. When a person is reduced in grade as a result of an unsuspended reduction, his or her date of rank in the grade to which reduced is the date the punishment of reduction was imposed. If, however, a reduction is set aside and all rights, privileges, and property are restored, the member concerned will be entitled to pay as though the reduction had never been imposed.
3. Army Regulation 635-5 (Separation Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation. In item 5a (Grade, Rate or Rank) enter active duty grade or rank and pay grade at time of separation from ERB/ORB.
4. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:
 - a. Department of the Army General Orders 3, dated 1970, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation for service in Vietnam to the 3d Battalion, 22nd Infantry Regiment.
 - b. d. Department of the Army General Orders 51, dated 1971, announced award of the Republic of Vietnam Civil Actions Honor Medal, First Class, for service in Vietnam to the 3d Battalion, 22nd Infantry Regiment.
 - c. Department of the Army General Orders 10, dated 1968, announced award of the Meritorious Unit Commendation for service in Vietnam to the 4th Infantry Division.

d. Department of the Army General Orders 37, dated 1970, announced award of the Meritorious Unit Commendation for service in Vietnam to the 25th Infantry Division.

e. A bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the following 2 campaigns:

- Vietnam Counteroffensive Phase II, 1 July 1966 – 31 May 1967
- Vietnam Counteroffensive Phase III, 1 June 1967 – 29 January 1968

//NOTHING FOLLOWS//