

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 June 2024

DOCKET NUMBER: AR20230012326

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show the following:

- Item 12 (Last Duty Assignment and Major Command) – delete current entry and replace with Company C, 1st Battalion, 6th Infantry Regiment, 196th (sic) Infantry Brigade, 23rd Infantry Division (Americal)
- Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – add his already awarded Bronze Star Medal and Combat Infantryman Badge

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- News Article

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 the information on his DD Form 214 is incomplete.

a. The applicant notes his DD Form 214 fails to reflect his combat service as a platoon leader in Company C, 1st Battalion, 6th Infantry Regiment, 196th Infantry Brigade, 23rd Infantry Division (Americal). In addition, his already awarded Bronze Star Medal and Combat Infantryman Badge are not listed.

b. In support of his request, the applicant provides a copy of his Bronze Star Medal Certificate and a news article that describes an operation in which he participated.

3. The applicant's requested relief for adding the Bronze Star Medal to his DD Form 214 is supported by sufficient evidence; as a result, this portion of the requested relief will be addressed in the "ADMINISTRATIVE NOTE(S)" section and will not be further considered by the Board.

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

a. On 7 August 1969, the applicant executed his oath of office as a U.S. Army Reserve commissioned officer. On 26 September 1969, he entered active duty and, following the completion of his initial entry/infantry training, orders assigned him to a basic combat training company at Fort Ord, CA; he arrived at his unit, on 6 March 1970.

b. In or around July/August 1970, the applicant received reassignment instructions for Vietnam; he arrived in-country, on 10 September 1970, and, effective 11 October 1970, orders further assigned him to Company C, 1st Battalion, 6th Infantry Regiment, 198th Infantry Brigade, 23rd Infantry Division (Americal).

c. On or about 19 November 1970, the applicant's command completed his DA Form 67-6 (U.S. Army Officer Efficiency Report (OER)); the report covered the rating period 1 August to 19 November 1970 and was for the duty position of platoon leader, assigned to Company C, 1st Battalion, 6th Infantry, 198th Infantry Brigade. The report affirmed the applicant had been performing his duties within a combat counterinsurgency environment but did not describe any specific combat operations.

d. On 3 May 1971, Headquarters, 23rd Infantry Division General Orders (GO) awarded the applicant the Army Commendation Medal for the period 1 October 1970 to 31 March 1971, based on his meritorious achievement in connection with military operations against a hostile force, while assigned to HHC 198th Infantry Brigade.

e. On 3 July 1971, Headquarters, 23rd Infantry Division GO, awarded the applicant the Bronze Star Medal for service from 19 September 1970 to 19 July 1971. while assigned to HHC 198th Infantry Brigade.

f. On or about 13 July 1971, the applicant received an OER for the rating period 20 November 1970 to 13 July 1971; the rated duty position was executive officer, Headquarters and Headquarters Company (HHC), 198th Infantry Brigade. The report stated the applicant's unit was "organic to the 23d Infantry Division engaged in active combat in the Republic of Vietnam."

g. On 18 July 1971, the applicant completed his tour in Vietnam, and orders transferred him to the U.S. Army Personnel Center at Fort Lewis, WA for separation processing. On 22 July 1971, orders honorably released the applicant from active duty and transferred him to the U.S. Army Reserve. His DD Form 214 shows he completed

1 year, 9 months, and 27 days of net active duty service. The report additionally reflects the following:

- Item 12 – HHC, 198th Infantry Brigade, 23rd Infantry Division.
- Item 24 – National Defense Service Medal, Vietnam Service Medal, Army Commendation Medal, and Republic of Vietnam Campaign Medal with Device (1960).
- Item 30 (Remarks) – Vietnam Service: 10 September 1970 to 18 July 1971.

g. The applicant's available service record is void of any special orders awarding him the Combat Infantryman Badge.

5. Army Regulation (AR) 15-185 (ABCMR), currently in effect, states:

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

b. 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.

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. General Orders awarded the applicant the Bronze Star Medal. This award is not listed on his DD Form 214.

b. Last Unit of Assignment: Deny. The applicant's last unit of assignment was HHC, 198th Infantry Brigade. The DD Form 214 lists the Soldier's last of unit of assignment. His DD Form 214 correctly lists his last unit of assignment.

c. Combat Infantryman Badge: Deny. To be awarded the CIB, the Soldier must be an infantry Soldier (i.e., holds an 11-series MOS, in the grade of colonel or below), and the Soldier must be satisfactorily performing infantry duties; the Soldier must be assigned to an infantry unit, brigade-sized or smaller, that is engaged in active ground

combat; and the Soldier must have actively participated in such ground combat; campaign credits alone are insufficient to warrant this award. The Board found insufficient evidence the applicant actively participated in ground combat while assigned or attached to an infantry unit was that was engaged with the enemy in ground combat.

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:

Mbr 1 Mbr 2 Mbr 3

: : : 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 the Bronze Star Medal 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 changing his last unit of assignment or adding the Combat Infantryman Badge.

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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):

1. AR 635-5 (Separation Documents), in effect at the time, stated the DD Form 214 was to list all decorations, service medals, campaign credits, and badges awarded or authorized.
2. AR 600-8-22, currently in effect, states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States based on their qualifying service in Vietnam after 3 July 1965 through 28 March 1973. A bronze service star will be awarded for wear on the Vietnam Service Medal for the Soldier's participation in each recognized campaign; Vietnam campaigns include the following: Counteroffensive, Phase VII (1 July 1970 to 30 June 1971) and Consolidation I (1 July 1971 to 30 November 1971).
3. Department of the Army Pamphlet (DA PAM) 672-3 (Unit Citation and Campaign Participation Credit Register) shows Department of the Army General Order Number 8, dated 1974, awarded all units that served in Vietnam the Republic of Vietnam Gallantry Cross with Palm Unit Citation.
4. Based on the foregoing, amend the FSM's DD Form 214, ending 17 June 1971, as follows: item 24: delete Vietnam Service Medal and add the following: Vietnam Service Medal with two bronze service stars; and Republic of Vietnam Gallantry Cross with Palm Unit Citation.

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. Regarding the award of the Combat Infantryman Badge, the regulation states, for the award of the Combat Infantryman Badge, the Soldier must meet three requirements:
 - The Soldier must be an infantry Soldier (i.e., holds an 11-series MOS, in the grade of colonel or below), and the Soldier must be satisfactorily performing infantry duties
 - The Soldier must be assigned to an infantry unit, brigade-sized or smaller, that is engaged in active ground combat

- The Soldier must have actively participated in such ground combat; campaign credits alone are insufficient to warrant this award

3. U.S. Army, Vietnam (USARV) Regulation 672-1 (Decorations and Awards), in effect at the time, included additional guidance on the award of the Combat Infantryman Badge.

a. The regulatory criteria for the Combat Infantryman Badge was based on the principle that the infantry military occupational specialty (MOS)/specialty identified a man who was trained, lived, and fought as an infantryman.

b. The regulation added that the "Combat Infantryman Badge was not an award for being shot at or for undergoing the hazards of day to day combat. Other awards and decorations are designed to accommodate these situations."

c. The regulation stated Special Orders were to be used to announce the award of the Combat Infantryman Badge.

4. AR 635-5, in effect at the time, stated the purpose of a separation document is to provide the individual with documentary evidence of his/her most recent term of active duty service. It serves as a vital record for interested government agencies with helping Veterans obtain benefits to which they are entitled. With regard to item 12, the DD Form 214 preparer was to list the Soldier's last duty assignment and associated major command.

5. AR 15-185, currently in effect, states:

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

b. 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.

//NOTHING FOLLOWS//