

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 4 June 2024

DOCKET NUMBER: AR20230012502

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show his already awarded Legion of Merit and the Presidential Unit Citation. He also requests a personal appearance by phone or video.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4980-11 (Legion of Merit Certificate)
- National Archives (NA) Form 13038 (Certification of Military Service)
- DD Form 214

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 he earned, and his command awarded him, the Legion of Merit; in addition, he served in Korea, from November 1967 to December 1968 and, as such, he is authorized the Presidential Unit Citation. Neither award is reflected on his DD Form 214.

a. In support of his request, the applicant provides a copy of his Legion of Merit Certificate; a National Archives form verifying his service, from 1961 to 1979, and his DD Form 214. He has not included the orders for his Legion of Merit, and he does not identify the unit to which he was assigned when the unit received the Presidential Unit Citation.

b. The Legion of Merit Certificate shows that, on 4 August 1981, the Commanding General, U.S. Army Health Services Command, recognized the applicant's exceptionally meritorious service, during the period May 1971 until May 1981; the authorizing

Permanent Orders is not listed on the applicant's certificate. (The Army did not include the Permanent Order Number on awards certificates until 1991).

3. A review of the applicant's service records reveals the following:

a. On 15 May 1961, the applicant enlisted into the Regular Army for 3 years. Upon completion of initial entry training, the Army awarded him military occupational specialty (MOS) 91F (Neuropsychiatric Specialist); he continued his term of active duty, through extensions and reenlistments, and served in a variety of MOS-related assignments within the continental United States (CONUS).

b. In or around September/October 1967, the applicant received reassignment instructions for Korea, and he arrived in-country, on 29 November 1967; effective 11 December 1967, orders further assigned him to the 7th Medical Battalion, 7th Infantry Division. On 21 December 1968, the applicant completed his tour in Korea, and orders transferred him to a medical company at Fort Gordon, GA (now renamed Fort Eisenhower).

c. Following additional service within CONUS and a subsequent 4-year, 7-month assignment in Panama, orders reassigned the applicant to the Walter Reed Army Medical Center (WRAMC), Washington, D.C.; he arrived at his new duty station, on 16 July 1979. On 18 December 1979, the applicant immediately reenlisted for 3 years.

d. In September 1980, the applicant requested voluntary retirement, and, on 16 October 1980, WRAMC advised the applicant his retirement application had been approved. On 31 May 1981, the Army honorably retired the applicant in the rank/grade of sergeant first class (SFC)/E-7.

e. The applicant's DD Form 214 shows that, during the period 18 December 1979 to 31 May 1981, he completed 1 year, 5 months, and 14 days of net active duty, with 18 years, 7 months, and 3 days of prior active service. Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) lists the following:

- National Defense Service Medal
- Army Commendation Medal
- Armed Forces Expeditionary Medal
- Safe Driver Badge
- Army Good Conduct Medal (6th Award)
- Meritorious Service Medal

f. Apart of the DD Form 214 for the period ending 31 May 1981, the applicant's available service is otherwise void of the DD Forms 214 he received as a result of his immediate reenlistments; (he immediately reenlisted on 15 May 1964, 15 May 1970,

and 11 January 1974. Effective 1 October 1979 discontinued its policy of issuing a DD Form 214 for immediate reenlistments).

4. Department of the Army Pamphlet (DA PAM) 672-1 (Unit Citation and Campaign Participation Credit Register), currently in effect, lists unit awards conferred during World War II and the Korean War. Per War Department General Order Number 11, dated 1944, the War Department awarded the 7th Medical Battalion, 7th Infantry Division the Distinguished Unit Citation (later renamed the Presidential Unit Citation) for valorous actions during the period 29 to 31 May 1943.

5. DA PAM 672-3 (Unit Citation and Campaign Participation Credit Register), currently in effect, provides a list of unit awards authorized during the Vietnam War, the Grenada Operation, and the period of service subsequent to the Vietnam War, up to September 1987. No unit awards are reflected for the 7th Medical Battalion, 7th Infantry Division.

6. Army Regulation (AR) 672-5-1 (Awards), in effect at the time, stated the wear of the Presidential Unit Citation, Valorous Unit Award, and foreign unit awards were authorized for permanent wear when the Soldier was assigned and present for duty in the unit at any time during the period of the action cited. In all other cases, wear of unit awards was temporary, and had to be removed from the Soldier's uniform upon his/her reassignment.

7. 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). 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. 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 partial relief was warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered.

a. The evidence shows the applicant served on active duty from May 1961 to May 1981, retiring as SFC. A review of his official records did not reveal any orders for the Legion of Merit. However, he provides a certificate indicating award of the Legion of Merit that shows the Commanding General, U.S. Army Health Services Command, recognized the applicant's exceptionally meritorious service, during the period May 1971 until May 1981; the authorizing Permanent Orders is not listed on the applicant's certificate. This citation is consistent with his last duty assignment and his scope of responsibilities. Despite the absence of permanent orders, the Board accepted the certificate as sufficient evidence to add the Legion of merit to his DD Form 214.

b. The applicant does not identify what the unit to which he was assigned when the unit received the Presidential Unit Citation. The Board found insufficient evidence to add this award.

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 the Legion of Merit 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 adding the Presidential Unit Citation.

[REDACTED]

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[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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 authorized awards.
2. AR 600-8-22 (Military Awards), currently in effect, states the 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. Service members must have been assigned, attached, or mobilized to units operating in the area of eligibility for 30 consecutive or for 60 nonconsecutive days.
3. The evidence of record shows the applicant served in Korea, from 29 November 1967 to 21 December 1968. Based on the foregoing, add the Korea Defense Service Medal to the applicant's DD Form 214, ending 31 May 1981.

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 672-5-1, in effect at the time, stated:

a. The Legion of Merit was awarded to members of the Armed Forces of the United States who distinguish themselves by exceptionally meritorious conduct in the performance of outstanding services and achievements. The performance had to merit recognition of key individuals for service rendered in a clearly exceptional manner.

(1) Performance of duties normal to the grade, branch, specialty, or assignment and experience of an individual were not an adequate basis for this award.

(2) In peacetime, service should be in the nature of a special requirement or an extremely difficult duty performed in an unprecedented and clearly exceptional manner. However, justification may accrue by virtue of exceptionally meritorious service in a succession of important positions.

(3) As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

b. The wear of the Presidential Unit Citation, Valorous Unit Award, and foreign unit awards were authorized for permanent wear when the Soldier was assigned and present for duty in the unit at any time during the period of the action cited. In all other cases, wear of unit awards was temporary, and had to be removed from the Soldier's uniform upon his/her reassignment.

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

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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//