

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 September 2024

DOCKET NUMBER: AR20230013808

APPLICANT REQUESTS: In effect, the brother of a deceased former service member (hereinafter, referred to as the former SM) requests the upgrade of his brother's Distinguished Service Cross to the Medal of Honor.

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

- Two letters from counsel
- U.S. Army Human Resources Command (HRC) letter
- Proposed Medal of Honor narrative
- Four affidavits
- Attachment
- National Personnel Records Center (NPRC) letter

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. Counsel for the applicant states he is writing in unqualified support of awarding the Congressional Medal of Honor to the former SM.

a. By way of background, counsel discloses he was a naval officer during the Vietnam War, and he served in a variety of leadership positions aboard ship. His ship's mission was to supply over 18,000 types of fuel for allied vehicles and planes, and it operated in the same general vicinity as where the former SM's heroic actions took place.

b. In early 1968, the North Vietnamese and Viet Cong (VC) guerillas initiated the Tet Offensive (a major escalation by the North Vietnamese that, while a tactical failure, ultimately eroded the American public's support for the war). Having served during this period and lost men as a result of enemy action, counsel has an "acute appreciation for the times and the actions performed by [former SM], in utter disregard for his own life

while saving the lives of others and repelling an enemy advance against overwhelming odds." "Upon review, it is clear that [former SM] distinguished himself conspicuously by his gallantry and intrepid actions at the risk of his own life, while engaged with North Vietnamese forces. I believe you will find reports of these acts in his previous medal commendations; eyewitness statements, all evidencing that his acts were in the highest traditions of our country."

c. Counsel continues by acknowledging that it is likely the former SM did not know the enemy's ultimate objective was to seize the "Tri-Thien provinces (apparently meaning to the provinces of Quảng Tri and Thừa Thiên – Huế) (and the psychologically important coastal city of Huế) during its push eastward along Route 9 (a major supply line)." However, it should be evident, to even the most casual observer, that, once Lang Vei fell, the next target would have been Khe Sanh (a city located near the Demilitarized Zone and the Laotian border). At the time, everyone, all the way to the White House, viewed the battle for Khe Sanh as an "American Dien Bien Phu" (referring to the 1954 battle between the French and the Viet Minh (a communist-led nationalist group) that resulted in the end of French colonial rule).

d. The battle for Lang Vei was essentially a battle for terrain, and the enemy's seizure of the American camp and Old Lang Vei would have provided a staging point for the continued siege of Khe Sanh and, as such, an increased chance of North Vietnam winning the war. On 7 February 1968, the former SM led a force from Khe Sanh to Old Lang Vei in order to rescue 14 wounded Green Berets who awaited extraction while being pursued by the North Vietnamese infantry. "Old Lang Vei was a previously overrun U.S. Army Special Forces camp a half-mile from the Lang Vei Special Forces camp where the North Vietnamese Army attacked with a regiment of infantry and 13 Soviet-made tanks (the first tank attack against U.S. forces in the Vietnam War)...."

(1) "Denying the Americans the ability to retake Lang Vei and Old Lang Vei – indeed by killing the relief force and destroying US helicopters on a landing zone so close to Khe Sanh to permanently dissuade an American counterattack – likely might have had a crippling impact on the defense of Khe Sanh and the immediate future of the direction of the war."

(2) The former SM's heroic actions not only saved lives and reinforced American resolve to rescue survivors in extreme circumstances, he also single-handedly prevented a tactical tragedy that would have "resounded with devastating operational and strategic consequences for the American effort in the Vietnam War."

e. In 2017, the applicant requested HRC to upgrade his brother's Distinguished Service Cross, and he submitted a packet to the Awards and Decorations Branch's consideration. That packet contained the requisite DA forms, explanations, maps and personal statements from participants attesting to the former SM's bravery, and when

the Awards and Decorations Branch noted a discrepancy, the applicant immediately made corrections. However, instead of forwarding the updated information to the Army Decorations Board, the Awards and Decorations Branch insisted that what was provided did not meet the "new and substantive requirement." Even after enlisting the support of the applicant's U.S. Senator, HRC refused to take action.

f. The purpose of this current request is to convince the Board that an analysis of the awards packet is a proper next step in determining the former SM's eligibility for the Medal of Honor.

(1) "As a Veteran who served during the time of these events in perilous circumstances in early 1968 when the NVA (North Vietnamese Army) executed the Tet Offensive, I recognize the force (with) which these NVA regulars acted. For the first time, they arrived with tanks, with battalion force strength, and previously unused tactics. They were very effective in I Corps, as we all knew from their many victories in Hué and Khe Sanh, among others, and were determined to push our forces out. [Former SM], in saving a unit of Green Berets, given up for annihilation by many, stands out as an example of what is best in Americans."

(2) "[Applicant] will accept the Review Board's findings and recommendation."

3. The applicant provides a proposed narrative; a letter from the NPRC, which lists the former SM's awards; and the following:

a. The proposed narrative addresses the former SM's rescue of entrapped U.S. Special Forces advisors, on 7 February 1968; included is the following:

(1) "As the Lang Vei Special Forces camp was being overrun just after midnight on February 7 by thirteen PT-76 Russian-built tanks and an estimated two battalions of NVA regulars, [former SM] immediately organized a relief force upon learning that U.S. Marines at Khe Sanh declined repeated requests for help from surviving US Special Forces at the camp. [Former SM] persisted in his requests to rescue the survivors until the afternoon of February 7 when the mission was approved."

(2) "[Former SM] moved his rescue force, consisting of 13 other Americans and nearly fifty indigenous personnel, by air to Old Lang Vei, a previously destroyed Special Forces camp a half-mile from where the tank attack occurred where fourteen Americans awaited rescue amid furious enemy direct and indirect fire." "By this point in the battle, NVA infantry were advancing perilously close to Old Lang Vei to prevent the rescue of survivors and to block any potential US reinforcements. The NVA's primary indirect fire targets included the Khe Sanh combat base to interrupt US Marine counterbattery and supporting artillery fire, and Old Lang Vei. It was clear that Old Lang Vei had become

decisive terrain. If US forces could seize it, hard fought NVA gains at the Lang Vei Special Forces camp would be threatened."

(3) "The presence of large US helicopters delivering the rescue force upon such a small piece of terrain at Old Lang Vei encouraged NVA indirect fire to increase at a massively murderous rate. The enemy fired furiously in attempts to destroy the CH-46 helicopters on the landing zone with 122 and 140-millimeter rockets, 152-millimeter artillery cannons, and 82-millimeter mortars. If successful, more Americans would die, the rescue attempt would fail, and the destroyed helicopters would block the landing zone preventing further US reinforcements."

(4) "It was against this deadly, desperate backdrop that [former SM] stood his ground, uncovered and exposed constantly to withering enemy fire both direct and indirect to orchestrate the rescue operation and close air support fires. He was first to disembark the helicopter and immediately established a hasty defensive perimeter to protect the survivors while sending teams to quickly search the area for more survivors. [Former SM] personally supervised the loading and extraction of the Lang Vei attack survivors by constantly exposing himself to deadly accurate enemy direct and indirect fire with no regard for his personal safety."

(5) "[Former SM] then recalled his rescue force and personally supervised their extraction despite increased enemy fire at him and on his position. He was the last person to leave the landing zone. His resolute valor saved the lives of fourteen U.S. Special Forces survivors of the unprecedented enemy tank attack against the Lang Vei camp; enabled the safe return of his rescue team with no deaths or injuries; and prevented the enemy from destroying the extraction helicopters on the landing zone enabling US forces the flexibility to re-seize Old Lang Vei for future operations, a clear operational and strategic advantage."

b. HRC's June 2017 letter to the applicant's U.S. Senator. The letter states:

(1) "We are unable to forward this request for reconsideration to the Army Decorations Board at this time. After reviewing the original recommendation for award and comparing it to the provided letters of justification from [applicant] and Mr. W__ M. H__, we have concluded that the letters do not present any new, substantive and material information which profoundly changes the scope and magnitude of [former SM's] actions."

(2) "As stated in our previous correspondence of May 3, 2017, the submission of new minor detail regarding the event, as well as information previously known to his wartime chain of command, will not justify Medal of Honor reconsideration. Please note the overall impact or effects of [former SM's] actions on the war is subjective information and cannot be used as justification for award."

c. Four affidavits:

(1) Mr. W__ M. H__ acknowledges he was under the former SM's direct command, starting from around July 1967, when he assumed command of the three Studies and Observation Spike Teams, until April 1968; Mr. H__ affirms he was with the former SM on 7 February 1968.

(a) For correction and/or clarity, the former SM never divided the troops due to enemy fire or pressure (as suggested in the Distinguished Service Cross citation). Mr. H__ notes that the former SM met the selection criteria to assume command, and the three Spike Teams he commanded consisted of 2 or 3 Americans each and 9 very seasoned "Bru Montagnards" (denoting a group of indigenous tribesmen from Vietnam's central highlands who the French colonialists named "Montagnards," or "mountaineers"). After participating in several top secret and extremely sensitive missions into Laos, the teams operated as a "finely tuned machine." They lived in an old French fort and were assigned to a forward operating base not far from a U.S. Marine Corps (USMC) location.

(b) "Since 21 January 1968, all C&C (command and control) SOG (Studies and Observations Group) and indigenous Soldiers were living...within the...newly formed FOB-3 (forward operating base number "3") at Khe Sanh." In February 1968, overwhelming fire pounded the Lang Vei Special Forces camp; months earlier, the USMC had agreed to support the camp if needed. On 7 February 1968, the Lang Vei camp radioed FOB-3 and the USMC command that they were being overrun by several enemy tanks, rockets, artillery, mortars, and thousands of enemy Soldiers. Hundreds of indigenous Soldiers had already been killed and only 14 of the 25 Special Forces Soldiers were left; they were in a bunker, and their avenue of escape was blocked by an enemy tank. Upon hearing the radio message, the former SM rushed to the three teams and sternly said, "We have to get the survivors out of Lang Vei, some way, somehow!"

(c) With 5,000 or more Marines at Khe Sanh, the USMC commander refused to send or commit troops for a rescue effort. However, by his persistence, determination, and brilliant boldness, the former SM managed to secure two USMC CH-46s (a tandem-rotor helicopter capable of hauling 4,000 pounds of cargo or 22 combat-equipped troops), along with a number of USMC and Army gunships. As the aircraft circled the vicinity of Lang Vei, Mr. H__ saw hundreds of "dead friendlies"; the pilots carefully selected a landing zone, and the former SM was the first to exit the aircraft. They moved quickly, laying down heavy fire to stop the enemy's advance; "It was very intense," Mr. H__ observes.

(d) During the rescue, the former SM continually exposed himself to enemy fire while directing the gunships to accurately engage enemy targets and simultaneously ensuring all of survivors were able to depart on a UH-1 and the CH-46s. As the

survivors flew out, the former SM and six teammates remained behind. After making one last sweep to check for remaining survivors, the former SM had Master Sergeant (MSG) (C__ J.) M__ call for an extraction; despite the "heavy, heavy enemy fire, the bold (CH-46) pilots came back and extracted us." The former SM was the last to board the helicopter for the flight out.

(e) "[Former SM's] bravery, boldness, brilliant planning, organizing, directing and total disregard for his own personal safety is far above and beyond any and all expectations of the U.S. Special Forces, U.S. Army, and United States of America, To deny him the Medal of Honor would be an insult to all."

(2) In December 1988, both Lieutenant Colonel, Retired (LTC (R)) H__ R__ (the former SM's commander) and Sergeant Major (SGM) W__ D__ submitted separate statements affirming Sergeant (SGT) W__ M. H__ was a member of their command and that he had participated in numerous classified missions.

(3) Retired Noncommissioned Officer (NCO) C__ J. M__ stated:

(a) During the 1968 Khe Sanh siege, North Vietnamese Regulars overran the Lang Vei Special Forces camp. This engagement was the first time the North Vietnamese used tanks. Just a week earlier, the writer (then MSG C__ J. M__) and his team advised the commander at Lang Vei that they had observed tank tracks and seen North Vietnamese Soldiers in new black and khaki uniforms, but it did not appear that the commander took them seriously.

(b) Their TOC (tactical operations center) received radio messages from the headquarters bunker at Lang Vei; most of the surviving Soldiers were in the bunker and they pleaded for help. The former SM went to the Marine Colonel and asked for a company of Marines to rescue the Soldiers at Lang Vei, but the Colonel denied his request, stating they did not know the enemy's strength at Lang Vei, and he would not risk a company under those conditions.

(c) The former SM came back and asked for volunteers, and every American raised their hands; even Sergeant Major (SGM) P__ volunteered. The writer told SGM P__ that he did not want him because his presence would (as a SGM) put him in charge. SGM P__ responded that he would go as a "grunt" (regular infantryman), and he did just that; "a helluva Soldier," Mr. M__ opined.

(d) The former SM took his volunteers and the Montagnard teams and put them on two "Jolly Green Giants" (CH-46s), and they took off for Lang Vei. The writer had the point element, and they landed under fire right in the middle of the camp. They fought their way to the bunker, and the former SM brought the survivors to the landing zone; Mr. M__ believes there were 14 survivors, most of whom were wounded.

(e) The "Jolly Green Giants" came back in and the survivors and the rescuers were exfiltrated; the former SM successfully got the helicopters back, evacuated the survivors and all of the people he brought with him. Throughout the rescue, the former SM could not complete all he had to do under protective cover, and he never made an effort to shield himself. He calmly and openly walked around the area, despite the constant enemy small arms fire and mortar explosions. As in any special operations activity, the former SM, as the officer in charge, was the first man on the ground and the last man to leave.

4. A review of the former SM's service record shows the following:

a. On 18 December 1959, after his induction into the Army of the United States (AUS) and graduation from officer candidate school (OCS), the former SM executed his oath of office as an infantry U.S. Army Reserve commissioned officer; he immediately entered active duty. Orders subsequently transferred him to the 1st Infantry Division at Fort Riley, KS, where, in 1960, he completed airborne training and Ranger school. On 20 April 1960, orders assigned him to an infantry company at Fort Riley.

b. In June 1962, the applicant attended the Army's Military Advisor Training Academy (MATA) at Fort Bragg, NC (now renamed Fort Liberty). In August 1962, upon graduation from MATA, he attended Vietnamese language training at the Presidio of Monterey, CA.

c. On 17 October 1962, the former SM arrived in Vietnam, and orders assigned him to the Military Assistance Advisory Group (MAAG), Vietnam. In October 1963, the former SM completed his tour in Vietnam, and orders reassigned him to a Special Forces Group at Fort Bragg; he arrived, on 11 October 1963.

d. On 17 February 1964, he returned to Vietnam, on temporary duty (TDY) orders. On 16 April 1964, MAAG General Orders awarded the former SM the Bronze Star Medal with "V" Device for heroism performed, on 27 March 1963, while serving as an Assistant Battalion Advisor for an Army of the Republic of Vietnam (ARVN) battalion. On 23 May 1964, the 7th Special Forces Group (Airborne) awarded him the Special Forces Qualification Prefix "3." In June 1964, he completed his TDY and returned to Fort Bragg. In October 1964, he returned to the Presidio of Monterey to complete Thai language training.

e. On 14 June 1967, the Army Decorations Board recommended the upgrade of the former SM's Bronze Star Medal with "V" Device to the Silver Star. On 20 June 1967, after completing tours in Okinawa and Thailand, orders reassigned him to the 5th Special Forces Group in Vietnam. On 14 September 1967, Department of the Army General Orders (DAGO) awarded the former SM the Silver Star. Effective 6 October 1967, the AUS promoted him to MAJ.

f. On 7 February 1968, the former SM led Special Forces and indigenous Soldiers in the rescue of Lang Vei survivors. On 14 April 1968, the Army declared him as missing-in-action after a flight on which he was a passenger lost contact with ground control. On 15 August 1974, after positive identification of recovered remains, the Army declared the former SM a non-battle death.

g. On 31 December 1974, Department of the Army General Orders Number 56 announced the former SM's award of the Distinguished Service Cross. The award's narrative statement included the following:

(1) "[Former SM] distinguished himself by extraordinary heroism, on 7 February 1968, in connection with military operations against an armed and hostile enemy in the Republic of Vietnam. When the Lang Vei Special Forces camp was overrun, on 7 February 1968, by nine P79 Russian tanks and an estimated two battalions of North Vietnamese, [Former SM] immediately set about organizing a relief force, which he moved to Old Lang Vei Camp, where the wounded survivors had withdrawn."

(2) "Upon arrival at Old Lang Vei, which by this time was under attack, [Former SM] personally supervised the loading and extraction of Lang Vei survivors, constantly exposing himself to deadly accurate enemy mortar and small arms fire. When it became apparent that his relief force was surrounded with no hope of extraction from the location, [former SM] immediately set about dividing his force in half while continually exposing himself to a tremendous volume of enemy fire to bring in friendly air strikes.

(3) "Under the firm hand and cool courage of [former SM], half of the group delivered such a withering and intense volume of fire that the enemy was unable to prevent the breakout. When the breakout force became pinned down enroute to the landing zone, [former SM] personally maneuvered his group against the superior enemy force, driving them from their positions, allowing his personnel to reach the landing zone. [Former SM] personally supervised the extraction of his men while constantly exposing himself to enemy fire from all sides to call in friendly air strikes. He was the last person to leave the landing zone."

h. Historical Context.

(1) Starting in 1961, the MAAG (later designated the U.S. Military Assistance Command, Vietnam (MACV)) and the Special Forces established bases in various locations across Vietnam to advise and train members of the Civilian Irregular Defense Group (CIDG; a paramilitary group made up of minorities from Vietnam's Central Highlands). In 1966, the 5th Special Forces Group opened the first Lang Vei camp (later referred to as "Old Lang Vei") along National Route 9 (a vital supply line) and situated in the northwest corner of the Quảng Tri Province, about five miles west of the Khe Sanh USMC base.

(a) In September 1967, following a North Vietnamese infiltration resulting in extensive damage to the camp, the Special Forces relocated the camp to a more defensible position about 1,000 meters to the west; even after the completion of the new camp, Old Lang Vei continued to be used.

(b) In January 1968, North Vietnamese forces attacked Khe Sanh village, occupied at the time by a Laotian Elephant Battalion; the North Vietnamese Army ultimately seized the village and placed the nearby USMC base under siege. The survivors members of the Laotian Elephant Battalion retreated to Old Lang Vei, where they were supported by six Special Forces advisors (including Sergeant First Class (SFC) E__ A__).

(2) According to the U.S. Army Center of Military History, on the morning of 6 February 1968, the North Vietnamese Army bombarded the (new) Lang Vei camp with mortar rounds; then, in the early evening, 50 rounds of enemy 152 millimeter artillery fire landed in the camp, heavily damaging two bunkers. Just after midnight, Soviet-built tanks, with North Vietnamese Soldiers behind them, approached the camp; as the tanks reached the camp's barbed wire, the fighting began.

(a) The camp commander tried to get artillery support from the Khe Sanh USMC base, but their response was delayed because they too were under artillery bombardment. The USMC subsequently provided artillery support, and a U.S. Air Force (USAF) flareship and a gunship arrived above Lang Vei. Shortly thereafter, fighter aircraft came and directed airstrikes toward the enemy; however, despite all efforts, the enemy continued to gain ground. The CIDG defenders at Lang Vei fought valiantly, but the North Vietnamese Army was able to overrun their positions; survivors withdrew to other positions within the camp or retreated to Old Lang Vei. At this point of the battle, only 14 of the 24 Special Forces Soldiers at Lang Vei were still alive, and they continued their defense of the camp.

(b) The U.S. Army Center of Military History account of the battle states, while Lang Vei was under heavy siege, "the Laotian survivors and their six American advisors at the old camp site were faring much better. Either the enemy was unaware that the old camp, which lay about a kilometer east of the new camp, was occupied or they did not think a diversionary attack against it was worth the effort." Frustrated and anxious to help their beleaguered comrades, the Americans there monitored the battle by radio, attempting to determine the course of the fighting.

(c) The U.S. Army Special Operations History – Veritas states in its operational analysis of the Battle of Lang Vei that, by mid-morning, SFC E__ A__ "had marshalled about fifteen volunteers from the Laotian military. In between leading five ground assaults, the Special Forces sergeant talked with Marine artillery men and Air Force forward air controllers (FACs) to open an escape route for the Americans trapped in the

operations bunker. Though SFC E__ A__ would be mortally wounded during his fifth attack, the continuous air strikes pinned down the NVA Company sufficiently to allow the survivors to escape to old Lang Vei." The Army posthumously awarded SFC E__ A__ the Medal of Honor.

(3) As the battle for Lang Vei unfolded, the USMC commander at Khe Sanh refused requests to rescue the Lang Vei survivors; discussions as to how to reinforce the camp elevated to an element of the 5th Special Forces Group in Da Nang.

(a) The MACV commanding general (CG) happened to be in Da Nang at that moment and learned of the ongoing battle and the USMC commander's decision not to risk a relief force. An account provided in chapter 14 (Siege of Khe Sanh) of "U.S. Marines in Vietnam – The Defining Year – 1968," states, after the northern SOG commander (Army LTC D__ L. B__) strongly advocated sending a relief force to evacuate survivors, the MACV CG directed the USMC to supply enough helicopters for a 50-man mobile strike force, and he ordered the Special Forces Group commander and the CG of the USMC's 1st Marine Air Wing to develop a rescue plan.

(b) LTC D__ L. B__ recommended that Special Forces troops at FOB-3 conduct the helicopter-supported evacuation of Lang Vei. The "U.S. Marines in Vietnam – The Defining Year – 1968," states, on 7 February 1968, "Shortly after 1700, under strong air cover from fixed-wing aircraft and helicopter gunships, Marine CH-46s heli-lifted the relief force from FOB-3 into old Lang Vei. Despite some mobbing by Laotian and some of the Vietnamese troops, the helicopters brought out most of the Americans and the most seriously wounded of the Laotians and Vietnamese troops. The rest made their way to Khe Sanh on foot. The loss of life was heavy for the Special Forces and CIDG troops at 'new' Lang Vei. Almost 300 of the camp's 487 defenders were killed, wounded, or missing, including 10 Americans killed and missing, and another 13 wounded from a total of 24."

(4) U.S. Army Special Operations History – Veritas concludes, "Lang Vei was another pyrrhic Communist victory during the Tet Offensive because the NVA and VC suffered major losses. The Lang Vei Special Forces camp defenders and the subsequent ten hours of airstrikes and artillery on the SF camp deterred a major direct assault on the Marine base at Khe Sanh. This upset NVA intentions to control the northern provinces of Quảng Tri and Thừa Thiên as well as the DMZ." "The Special Forces border camp at Lang Vei was not reestablished. General (GEN) C__ W. A__ Jr., who succeeded GEN W__ C. W__ as Commander, MACV (10 June 1968), closed the Khe Sanh Marine Base on 5 July 1968."

i. In December 2009, a chapter of the Disabled American Veterans (DAV) issued a resolution to award the former SM the Medal of Honor; in support of the resolution, the

DAV chapter included a typewritten version of the statement by Retired NCO C__ J. M__ (the same statement as submitted with this application).

(1) In January 2010, the chapter's U.S. Representative forwarded the resolution and supporting documents to HRC for review.

(2) In February 2010, HRC responded, "Per Department of Defense and Army policy, a request for reconsideration for a possible upgrade of a previously approved or downgraded recommendation for award can be submitted...only if new, substantive, and material information is furnished...Please note that the letter of justification must be written by someone with personal knowledge of [former SM's] actions...A copy of the original recommendation for award with proposed citation, original wartime chain-of-command endorsements, and original eyewitness affidavits, a privacy release signed by [former SM's] primary next-of-kin, and a copy of his DD Form 214 must be attached."

j. In March 2010, the applicant requested his U.S. Representative to assist in upgrading his deceased brother's award to the Medal of Honor. Through his U.S. Representative, the applicant submitted the following to HRC:

- DA Form 638 (Recommendation for Award), with no chain of command endorsements; a narrative
- Handwritten version of Retired NCO C__ J. M__'s statement
- Former SM's DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), ending 17 December 1959
- DD Form 1300 (Report of Casualty)
- Distinguished Service Cross citation and associated DAGO
- NPRC with list of the former SM's awards
- General Information about the Former SM

k. On 1 July 2010, HRC sent a response to the applicant's U.S. Representative, stating, "We reviewed this request and did not find sufficient documentation to forward to the Army Decorations Board for consideration." HRC then outlined what it required for the former SM's award to be reconsidered. In January 2011, HRC responded to a December 2010 request from the applicant's U.S Representative. HRC stated:

(1) "Unfortunately, we are unable to forward this recommendation to the Army Decorations Board. We acknowledge receipt of the DA Form 638 (Recommendation for Award), proposed citation and letter from [Retired NCO C__ J. M__]. However, the Board still requires a two page letter of justification, written by an individual with personal knowledge of [former SM's] actions, noting any omissions or errors in the original recommendation for award or supporting documentation."

(2) "The Board also requires a proposed award narrative, maps or diagrams of the location of the action, notarized eyewitness affidavits regarding the action and endorsements from [former SM's] former wartime chain-of-command. If chain-of-command endorsements cannot be obtained, information regarding the steps taken to locate them must be provided. Once this documentation is received, we would be pleased to forward this recommendation to the Army Decorations Board for consideration."

l. In August 2016, the applicant wrote his U.S Senator and enclosed a copy of HRC's January 2011 letter. The applicant affirmed he was sending his Senator "two additional notarized letters of justifications from W__ H__ and R__ D. M__, both individuals with personal knowledge of [former SM's] actions, noting omissions or errors in the original recommendation for award or supporting documentation. I am also providing you with a duplicate copy of the notarized letter from (Retired NCO C__ J. M__), who also had personal knowledge of [former SM's] actions as well as DA Form 638, Apr 2006 signed by Lt. Colonel D__ C. S__, 5th Special Forces Group MACV-SOG."

m. In February 2017, HRC responded to the U.S. Senator's request to upgrade the former SM's Distinguished Service Cross. HRC stated:

(1) "We are unable to forward this request for reconsideration to the Army Decorations Board at this time. We acknowledge receipt of a DA Form 638 (Recommendation for Award) for the Medal of Honor, award narrative, letter of Justification from Mr. W__ M. H__ and sworn eyewitness statements. While these documents are helpful, there are several administrative and regulatory requirements pursuant to Department of Defense Manual 1348.33, Volume 1 (Manual of Military Decorations and Awards: General Information, Medal of Honor, and Defense/Joint Decorations and Awards) and Army Regulation 600-8-22 (Military Awards) which are not met by the Information provided."

(2) "As stated in our previous correspondence with another member of Congress on February 2, 2010, July 1, 2010, and January 14, 2011, a request to reconsider a previously approved, disapproved, or downgraded award is contingent upon the presentation of new, substantive, and material information directly pertaining to the Soldier's actions. Based on review of Mr. H__'s justification for award upgrade, we have determined the Information does not present any new, substantive, and material Information directly pertaining to [former SM's] actions which were not already cited in the original recommendation for award. The submission of new, minor details, as well as information previously known to the chain of command at the time, does not justify award reconsideration. Therefore, in order to move forward with this request, we require a revised letter of justification as well as a new award narrative and proposed citation for the Medal Honor, illustrating new, substantive, and material Information which

fundamentally changes the scope and magnitude of his actions; and maps and diagrams in color format showing the location of the event."

n. On 1 May 2017, the applicant's U.S. Senator answered HRC with additional attachments to justify the award upgrade; these included:

- DA Form 638
- Proposed citation
- Statements by Retired NCO C__ J. M__, Retired LTC H__ R__, Mr. R__ D. M__
- A graphic showing a map of Vietnam and the location of the Lang Vei Special Forces camp
- An aerial photo of Old Lang Vei Special Forces camp
- Sketch of Lang Vei Special Forces camp and a photo of the vicinity near the camp
- Map reflecting the direction of North Vietnamese indirect fire support
- Photo of former SM's team

o. At some point after 1 May 2017, the applicant wrote HRC expressing his concerns about HRC's responses to date. He reiterated HRC's stated requirements for the Army Decorations Board; he emphasized the former SM's heroic actions, and he added, "Being a civilian, I find your requests to be deterring to this entire process. I have had help complying and fulfilling all of the necessary information requested. These Vietnam Veterans, advocates, commanding officers, and Special Forces soldiers who were part of this rescue mission were all in awe of [former SM's] and his accomplishments at Lang Vei...To say that I am frustrated with this ongoing mission would be an understatement."

p. On 27 June 2017, HRC wrote the applicant's U.S. Senator stating it was unable to forward the request for reconsideration to the Army Decorations Board, based on the absence of new, substantive, and material information not already considered by the former SM's wartime chain of command.

BOARD DISCUSSION:

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 Army does not have authority to approve award of the Medal of Honor. However, the Secretary of the Army may make a recommendation to forward an award the Medal of Honor, through the chain to the approval authority.

a. The evidence shows on 31 December 1974, HQDA awarded the Former SM the Distinguished Service Cross for distinguishing himself by extraordinary heroism on 7 February 1968, in connection with military operations against an armed and hostile enemy in Vietnam. On that day, when the Lang Vei Special Forces camp was overrun, by nine Russian tanks and an estimated two battalions of North Vietnamese, the former SM immediately set about organizing a relief force, which he moved to a camp where the wounded survivors had withdrawn. He personally supervised the extraction of his men while constantly exposing himself to enemy fire from all sides to call in friendly air strikes. He was the last person to leave the landing zone.

b. The highest awards for valor are, in descending order, the Medal of Honor, the Distinguished Service Cross, and the Silver Star. The Medal of Honor is awarded to a service member who distinguishes himself/herself conspicuously by gallantry and intrepidity at the risk of his or her life above and beyond the call of duty while engaged in action against an enemy of the United States. The Distinguished Service Cross is awarded to a Soldier who distinguishes himself or herself by extraordinary heroism not justifying the award of a Medal of Honor. The Silver Star is awarded to a Soldier who is cited for gallantry in action against an enemy of the United States while engaged in military operations involving conflict with an opposing foreign force.

c. As evidenced by the above descriptions, there exists a very fine distinction between "conspicuous gallantry and intrepidity," "extraordinary heroism," and "gallantry in action." Oftentimes, the degree of heroism required for a particular award is blurred and subject to personal interpretation. What is not subject to interpretation is the selfless sacrifice demonstrated by all recipients of these three highest awards for valor.

d. The SM's record shows he was cited for extraordinary heroism in connection with military operations in Vietnam. He distinguished himself by exceptionally valorous actions on 7 February 1968. A decision was made to award him the Distinguished Service Cross for his actions. The decision of whether to award an individual a decoration and which decoration to award is a judgment call made by the commander having award approval authority. Commanders at the time of the act, or shortly thereafter, determined the SM's were so extraordinary and so noteworthy as to warrant award of the Distinguished Service Cross.

d. The Board noted that the SM's packet has not been thoroughly reviewed by the Army Decorations Board. Although the award has been reviewed and re-reviewed by the Awards Branch at the U.S. Army Human Resources Command (AHRC) for a potential upgrade to the Medal of Honor; however, AHRC determined that in the absence the original recommendation, the submission each time did not present new, substantive, and material information directly pertaining to the SM's actions. The Board also noted that the applicant has made every effort to comply with and fulfill the

requirements. Therefore, the Board determined consideration of the applicant's packet by the Army Decorations Board is warranted.

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 partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by forwarding the applicant's award upgrade packet to the Army Decorations Board for consideration of a recommendation to upgrade the Distinguished Service Cross to Medal of Honor.

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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 (AR) 600-8-22 (Military Awards), currently in effect, prescribes policies and procedures for military awards.

a. Paragraph 1-16 (Reconsideration or Appeal of Previous Award Recommendations).

(1) A request for reconsideration or the appeal of a disapproved or downgraded award or a request for an upgrade of a previously approved recommendation must be placed in official channels within 1 year from the date of the awarding authority's decision. A one-time reconsideration by the award approval authority will be conclusive.

(2) Recommendations are submitted for reconsideration or appeal only if new, substantive, and material information is furnished. Additionally, only the award recommender or someone in the approving chain of command may request reconsideration.

(3) Requests for reconsideration must be forwarded through the same official channels as the original recommendation. The justification for reconsideration must be in letter format, not to exceed two single-spaced typewritten pages. A copy of the original recommendation, with all endorsements, and the citation must be attached. If the original recommendation is no longer available, a reconstructed recommendation must be submitted. Once the U.S. Army Human Resources Command (HRC) or the approval authority makes a decision on the award reconsideration, filing an application with the Army Board for Correction of Military Records is the submitter's only option.

b. Paragraph 3-9 (Medal of Honor). The Medal of Honor (Title 10 (Armed Forces), U.S. Code, section 7271 (Medal of Honor: Award) was established by Joint Resolution of Congress, 12 July 1862 (as amended by Acts of 9 July 1918 and 25 July 1963).

(1) The President of the United States awards the Medal of Honor and presents it in the name of the Congress. The Medal of Honor is awarded to a person who, while a member of the Army, distinguished themselves conspicuously by gallantry and intrepidity at the risk of their life above and beyond the call of duty while engaged in an action against an enemy of the United States; while engaged in military operations involving conflict with an opposing foreign force; or while serving with friendly foreign

forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(2) The deed performed must have been one of personal bravery or self-sacrifice so conspicuous as to clearly distinguish the individual above their comrades and must have involved risk of life. Incontestable proof of the performance of the service must be exacted and each recommendation for the award of this decoration will be considered on the standard of extraordinary.

c. Paragraph 3-10 (Distinguished Service Cross).

(1) A 1918 Act of Congress established the Distinguished Service Cross, and it is awarded to a person who, while serving in any capacity with the Army, distinguished themselves by extraordinary heroism not justifying the award of a MOH; while engaged in an action against an enemy of the United States; while engaged in military operations involving conflict with an opposing or foreign force; or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party. The act or acts of heroism must have been so notable and have involved risk of life so extraordinary as to set the individual apart from their comrades.

(2) The Distinguished Service Cross is a valor award and will not be awarded for achievement or service.

//NOTHING FOLLOWS//