

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 July 2024

DOCKET NUMBER: AR20230014431

APPLICANT REQUESTS:

- retroactive award of the Combat Action Badge
- a personal appearance hearing before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Orders BL-177-0048, US Army Installation Management Command, Headquarters, US. Army Garrison, Fort Bliss, TX, 26 June 2014
- Task Force Guardian S2 Assessment (Improvised Explosive Device (IED)) Incident Report, by 508th Military Police Battalion, 1 October 2014
- 7 DA Forms 2823 (Sworn Statement), 3 October - 2 December 2014
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 22 December 2014
- DA Form 4187 (Personnel Action), 15 April 2015
- memorandum for record (Applicant's Narrative Statement for Retroactive Award of the Combat Action Badge, 24 August 2021
- Officer Record Brief, 25 August 2021
- 2 memoranda, from the U.S. Army Human Resources Command, undated and 9 June 2022

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 he is seeking a reversal of the U.S. Army Human Resources Command's (HRC) denial of his request for a retroactive award of the Combat Action Badge.

a. His request for retroactive award of the Combat Action Badge was in reference to an IED attack involving his convoy in October 2014 when in Kabul, Afghanistan. He was not fully considered for the Combat Action Badge by his higher chain of command.

b. His Combat Action Badge packet/request was initially submitted in 2015 after his unit returned from Afghanistan, but it was initially returned due to incorrect filing of the paperwork. Due to a lack of support and other notable events, he did not have the chance to resubmit the retroactive request until he was activated and assigned to Fort Bliss, TX, from July 2021 to July 2022.

c. A retroactive Combat Action Badge request was submitted at Fort Bliss, TX, in 2021. He is an Army Reservist, and he was on a 1-year mobilization at the time.

d. Additionally, he states he believes denial of the award is unjust. According to the regulation, he and his Soldiers are eligible for the award because their vehicles were struck by shrapnel from an IED, which is considered being "engaged by the enemy." "He respectfully requests the matter be investigated and that he be contacted if needed for further clarification."

3. The ABCMR will not consider the applicant's request for an investigation into the events involving an IED attack and award of the Combat Action Badge. 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 will decide cases on the evidence of record. It is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

4. The applicant, a commissioned officer in the United States Army Reserve (USAR), entered onto active duty on 8 May 2014; he served in Afghanistan from 7 July 2014 to 20 November 2014.

5. A Task Force Guardian S2 Assessment, dated 1 October 2014, states "BDA: 3x AFG KIA, 7x AFG WIA." Two explosions occurred in Kabul this morning, the first at approximately 0640 and the second at approximately 0940 in Police District 9 near the Mycroyan area. The second explosion occurred 100-200m from a convoy of Task Force Guardian personnel travelling to "ISAF" Headquarters. Initial reports indicate the first explosion was targeting an ANA bus similar to the "VBIED" that occurred on 1 October 2014. The second explosion was reportedly a magnetic mine placed in a dustbin. "MTF" as information is received.

6. He provides seven DA Forms 2823, executed by eyewitnesses, and dated from 3 October 2014 to 2 December 2014, who gave detailed statements involving the IED

incident that occurred on 2 October 2014. The statements note there were 4 vehicles involved in a convoy and the applicant was in Vehicle 4. There were no injuries to personnel or damage to equipment noted in vehicles 1, 2, or 4. The statements generally note there was an explosion heard, and smoke seen. Even though the vehicles were in the "kill zone" of the explosion, most of the Soldiers did not see the blast; they only heard the explosion and saw the smoke. Only the statement from one of the personnel in the 3rd vehicle note any damage to the vehicle; he notes his vehicle was 40-60 from the explosion, which did cause debris to fall on the vehicles, but only small scratches and dents were noted.

7. He was honorably released from active duty upon completion of his required active service on 22 December 2014. His DD Form 214 shows he completed 7 months and 15 days of active service, of which 4 months and 3 days were credited as foreign service. Additionally, the Afghanistan Campaign Medal with 1 campaign star was listed but the Combat Action Badge is not reflected among his authorized awards.

8. He provides a DA Form 4187, dated 15 April 2015, showing, in accordance with (IAW) Army Regulation 600-8-22 (Military Awards), paragraph 8-8, the applicant's company commander recommended him for award of the Combat Action Badge. The following information was provided:

- Date of Engagement: 2 October 2014
- Location: Kabul, Afghanistan
- Description of Incident: Soldier was within 50 meter(s) of an IED blast which was targeted at his combat patrol. Soldier's vehicle was struck by debris and shrapnel
- Situation: While conducting a combat patrol in Kabul Afghanistan, the applicant was targeted in an IED attack
- Additional information was provided in the narrative and eyewitness statements
- Applicant's signature verifies he was personally present and engaged or being engaged by the enemy and performing satisfactorily IAW prescribed by rules of engagement
- Enclosures: DA Form 4187 (Endorsed by "1st GO)," DD Form 214,
- Deployment/Mobilization Orders, Narrative, Officer Record Brief/Enlisted Record Brief/DA Form 2-1, Eyewitness Statements (Minimum 2), Incident Report, and Commander's Recommendation

9. He provides an undated memorandum from HRC, Awards and Decoration Branch, stating the purpose of the memorandum was to return 14 retroactive Combat Action Badge requests for clarification and additional information.

a. During HRC's review, they determined the requests did not meet the requirements of Army Regulation 600-8-22, 8-8, f, (2). It became clear the requests were not individual accounts of a Soldier being engaged by or engaging the enemy.

While there was nothing wrong with collaboration among Soldiers who were part of an event, filling every packet with “cookie-cutter” statements did not meet the spirit, letter, or intent of the regulation and can diminish the prestige of an award, the Combat Action Badge in this case. Some specific examples of irregularities are:

- Some requests included statements that did not mention the Soldier that the request was intended for
- Some requests did not include a personal narrative from the Soldier that the request was intended for
- Some statements did not place the Soldier that the request was intended for at the scene of the incident, the Soldier's proximity to the incident, or whether there was possible risk of injury or loss of life

b. Recommendations: Return the packets to the appropriate units with instructions to have each request tailored to each Soldier's specific circumstances and direct the units to include in each submission only those documents and statements that pertain to the Soldier the request is for. The Soldiers are listed on the enclosure. Also enclosed are detailed instructions for submission of a retroactive Combat Action Badge request.

10. He provides a memorandum for record, dated 24 August 2021, wherein he states:

a. The purpose of this memorandum is to provide his personal narrative to the events that occurred on 2 October 2014 at approximately 0940. The following information was missing from his initial Combat Action Badge packet that was submitted for processing.

b. On 2 October 2014 at approximately 0945, he was on a combat patrol in Kabul, Afghanistan as a passenger/observer with the “CJ1ATF 435 PSD Team” from Camp Sabalu-Harrison, Bagram Airfield to “ISAF” Headquarters in Kabul. His truck was the last truck in a four-truck convoy. He and four other individuals were in his truck, “Call sign SABRE 10.”

c. While his truck was in movement, he was scanning the road (Route Violet) for hazards and suspicious vehicles. Suddenly, he heard a loud “boom” that was clearly audible; he felt it on his chest as well. Their location was “42WD18972164.” A few seconds passed, and he heard who he believes was Specialist F say, “yup there it is,” and documenting the distance at roughly 65 meters from their location. After a few more seconds, he heard Sergeant First Class S on the radio directing them to “reroute to Kabul International Airport (KIA). Shortly afterward, he heard Specialist D mention he had a visual on the blast site and many pedestrians [were] running frantically. He then observed his vehicle take a sharp right turn following the third truck onto route “KIA.”

After about ten minutes, they arrived at the Entry Control Point for KIA and entered the airport without incident.

11. He provides a memorandum from HRC, Awards and Decoration Branch, dated 9 June 2022, disapproving the request for retroactive award of the Combat Action Badge on behalf of the applicant for service performed in support of Operation Enduring Freedom. The documentation submitted in support of the request did not provide sufficient justification to warrant retroactive approval for the event in question.

a. IAW Army Regulation 600-8-22 (Military Awards), paragraph 8-8, a Soldier must be personally present and under hostile fire while performing satisfactorily IAW the prescribed rules of engagement. On or after 5 March 2019, a Soldier must also be performing in an offensive or defensive act while participating in combat operations, engaging, or being engaged by the enemy. The forwarded documentation did not indicate [the applicant] met the criteria. The Army Combat Action Badge was created in 2005 by the Chief of Staff, Army to provide special recognition to Soldiers who personally engage or are personally engaged by the enemy. The Combat Action Badge is intended to serve as a companion to the Combat Infantryman Badge and Combat Medical Badge to recognize the greatly expanded role of non-infantry Soldiers in active, ground combat. Per Army Regulation 600-8-22, paragraph 8-8, a Soldier must be personally present and under hostile fire while performing satisfactorily IAW the prescribed rules of engagement.

b. The applicant was also advised if he believed the determination to be unjust, he had the right to appeal to the ABCMR, the highest appellate authority on personnel matters.

12. His record contains a DD Form 214 for the period 1 July 2021 to 30 June 2022; the Combat Action Badge is not reflected among his authorized awards.

13. The Combat Action Badge is not intended to recognize Soldiers who simply serve in a combat zone or imminent danger area. Battle participation credit alone is not sufficient; the unit must have engaged or been engaged by the enemy. In order to qualify for the Combat Action Badge, a member must be performing assigned duties in an area where hostile fire pay, or imminent danger pay is authorized; they must be personally present and under hostile fire while performing satisfactorily IAW the prescribed rules of engagement; and they must not be assigned or attached to a unit that would qualify the Soldier for the Combat Infantryman Badge or Combat Medical Badge. On or after 5 March 2019, a Soldier must also be performing an offensive or defensive act while participating in combat operations, engaging, or being engaged by the enemy.

**BOARD DISCUSSION:**

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The evidence of record shows the applicant held military occupational specialty (MOS) 31B (Military Police). The evidence of record shows the applicant served in Afghanistan from 7 July 2014 to 20 November 2014; however, the Board majority determined he does not meet the criteria for award of the Combat Action Badge having not been in the vehicle that was struck by an improved explosive device (IED). The Board majority concluded by a preponderance of the evidence, including the provided sworn statements that the applicant did meet the criteria for award of the Combat Action Badge noting the close proximity of the IED.
2. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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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 considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. Army Regulation 600-8-22 prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. Instructions state the requirements for award of the Combat Action Badge are branch and military occupational specialty immaterial. Assignment to a combat arms unit or a unit organized to conduct close or offensive combat operations, or performing offensive combat operations, is not required to qualify for the Combat Action Badge. However, it is not intended to award the Combat Action Badge to all Soldiers who serve in a combat zone or imminent danger area. Award of the Combat Action Badge is not automatic and will not be awarded solely based on award of the Purple Heart. The Combat Action Badge may be awarded to any Soldier. Paragraph 8-8 states specific eligibility requirements which include:

a. Soldier must be personally present and under hostile fire while performing satisfactorily IAW the prescribed rules of engagement, in an area where hostile fire pay, or imminent danger pay is authorized. For all named conflicts beginning after 5 March 2019, a Soldier must also be performing in an offensive or defensive act while participating in combat operations, engaging, or being engaged by the enemy. A Soldier must be performing their assigned duties associated with the unit's combat mission in an area where hostile fire pay, or imminent danger pay is authorized.

b. Soldier must be performing assigned duties in an area where hostile fire pay, or imminent danger pay is authorized. The requirement for hostile fire pay or imminent danger pay does not apply to cases determined to be eligible under the conditions described in paragraph 3-8c.



c. Soldier must not be assigned or attached to a unit that would qualify the Soldier for the Combat Infantryman Badge/Combat Medical Badge. For example, an 11B (Infantryman) assigned to Corps staff is eligible for award of the Combat Action Badge. However, an 11B assigned to an infantry battalion is not eligible for award of the Combat Action Badge.

d. In addition to Army Soldiers, the Combat Action Badge may also be awarded to members of other U.S. Armed Forces and foreign military personnel assigned to a U.S. Army unit, provided they meet the above criteria.

e. Award of the Combat Action Badge is authorized from 18 September 2001 to a date to be determined. Award for qualifying service in any previous conflict is not authorized.

f. Second and subsequent awards of the Combat Action Badge are as follows:

(1) Only one Combat Action Badge may be awarded during a qualifying period.

(2) Second and subsequent award of the Combat Action Badge will be indicated by super- imposing one and two stars respectively, centered at the top of the badge between the points of the oak wreath.

g. Retroactive awards of the Combat Action Badge are not authorized prior to 18 September 2001.

//NOTHING FOLLOWS//