

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 July 2024

DOCKET NUMBER: AR20230014596

APPLICANT REQUESTS:

- reconsideration of his previous request for a 10 percent increase in his retired pay by virtue of receiving the Soldier's Medal
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement, 28 January 2024
- General Orders Number 127, 23 July 1964 (Army Commendation Medal)
- Certificate, Soldiers Medal, 16 April 1965
- General Orders Number 222, 28 February 1967 (Bronze Star Medal with "V" Device)
- Orders Number D55-13, 19 March 1980 (Retirement Orders)
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 2 April 1980

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20100024862 on 4 November 2010 and Docket Number AR20150008173 on 4 February 2016.

2. The applicant states he received the Soldiers Medal while on active duty, however when he retired in April 1980, he did not receive the 10-percent increase on his retirement; if it was combat, he would have received the Purple Heart. When he stopped the personnel carrier, he was pinned between the wall and the jeep. If the driver would have given the jeep gas, he would not have survived. He had a full leg cast for 12 months. His request is related to post-traumatic stress disorder (PTSD). For years he has suffered nightmares of the personnel carrier rolling over him. He spent two tours in Vietnam, saw combat and he was awarded the Bronze Star Medal with "V" Device and the Purple Heart. He does not have the medical records; they are in his personnel file.

Please review the General Order explaining the pain and suffering he endured due to the accident. He is plagued with sore legs. He will be 83 years old in June.

3. The applicant provides:

- a. General Orders Number 127, issued by Headquarters, 3rd Armored Division, 23 July 1964, that shows award of the Army Commendation Medal and shows in part:

[Applicant] while assigned to Company A, 1st Battalion, 33rd Armor, 3rd Armored Division distinguished himself by heroism on 12 January 1964. While performing duty as a relief commander applicant noticed a M113 personnel carrier crash through Gate #2 of Coleman Kaserne and head east. Immediately, and without regard for his own safety [applicant] mounted a quarter ton, and with his driver gave chase. As the personnel carrier reached downtown Gelnhausen, [applicant] overtook it, drew his pistol and ordered the driver to halt. Instead, he swerved sharply to the left and rammed the jeep. He then backed up and struck the jeep again, inflicting severe lacerations to [applicant's] right leg and fracturing his left leg. [Applicant], realizing the danger to civilians which the rampant personnel carrier represented, acted unhesitatingly and displayed great courage. The delay caused by [applicant] effort resulted in the drivers capture a few kilometers beyond Gelnhausen with no further injury to personnel or destruction to property. [Applicant] acted automatically to protect the life and property of others, completely disregarding the hazard to himself. Action such as this serves as an indication of [applicant's] professionalism, decisiveness and high degree of devotion to duty. [Applicant's] heroic action in the face of extreme danger is worthy of emulation and reflects great credit upon himself and the United States Army.

- b. A certificate that shows award of the Soldiers Medal for heroism on 12 January 1964.

- c. General Orders Number 222, issued by Headquarters, 196th Light Infantry Brigade, 28 February 1967, that shows award of the Bronze Star Medal with "V" Device and shows in part:

For heroism in connection with military operations against a hostile force. [Applicant] was serving as a Scout Squad Leader with Troop F, 17th Cavalry on 7 January 1966 when his squad was in pursuit of Viet Cong Squad. Suddenly they were brought under heavy fire by approximately 55 Viet Cong. [Applicant] immediately deployed his squad to place a heavy volume of fire upon the hostile force. Although his squad was outnumbered and flanked on three sides, by the enemy [applicant] continually exposed himself to the intense fire to direct his squad's fire. During the heavy engagement [applicant] remained in constant radio

contact with his troop commander and continually called in artillery and airstrikes. After 45 minutes of continuous fighting the squad was ordered to withdraw.

d. Orders Number D55-13, issued by U.S. Army Personnel Center, 19 March 1980, shows in part, the applicant was relieved from assignment and duty because of physical disability. He was awarded a 10 percent disability.

4. A review of the applicant's service records show:

a. The applicant enlisted in the Regular Army on 11 August 1959.

b. His DA Form 20 (Enlisted Qualification Record) shows in:

(1) item 31 (Foreign Service) – service in Vietnam from 22 December 1959 to 29 July 1964; service in Vietnam from 15 July 1966 to 15 April 1967; service in Germany from 11 March 1970 to 5 May 1971; service in Vietnam from 7 June 1971 to 10 March 1972; and service in Germany from 4 May 1972 to 27 July 1975.

(2) item 40 (Wounds) – shrapnel in right arm, 4 September 1971.

(3) item 41 (Awards and Decorations) –

- Army Good Conduct Medal (6th Award)
- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Three overseas service bars
- Four service stripes
- Combat Infantryman Badge
- Bronze Service Medal (2nd Award) with "V" device
- Army Commendation Medal (2nd Award)
- Purple Heart

c. On 2 April 1980, the applicant was honorably retired due to a permanent physical disability in pay grade E-7. He had 20 years, 7 months, and 22 days of active service. The applicant was awarded the Soldier's Medal, Bronze Star Medal (2nd Award), Bronze Star Medal with "V" Device, Purple Heart, Meritorious Service Medal, Army Commendation Medal (2nd Award), National Defense Service Medal, Vietnam Service Medal, Republic of Vietnam Campaign Medal, Army Good Conduct Medal (6th Award), Republic of Vietnam Gallantry Cross with Palm Unit Citation, Combat Infantryman Badge, Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16), and three overseas service bars.

5. On 4 November 2010, in Docket Number AR20100024862, the Board denied the applicant's request for an additional 10 percent in retired pay for his Soldiers Medal. The Board determined, in concurrence with the Army Decorations Board that the applicant's heroism was not equivalent to that required for award of the Distinguished Service Cross.

6. On 4 February 2016, in Docket Number AR20150008173, the Board denied the applicant's request and stated:

(1) On 12 January 1965, a rogue personnel carrier crashed through a gate at Coleman Barracks in Germany. The applicant displayed courage in mounting a jeep and giving chase. The perpetrator swerved the personnel carrier and rammed the jeep, injuring the applicant. The applicant's courageous actions prevented danger to personnel and property.

(2) He was awarded an interim award of the Army Commendation Medal for his actions. The award was then suspended and replaced with the award of the Soldier's Medal to recognize the applicant for his heroic action in the face of extreme danger.

(3) He retired on 2 April 1980 by reason of disability. His DD Form 214 captured the Soldier's Medal. Following his retirement, he communicated multiple times with the Army Decorations Board and was advised that the Army Decorations Board considered his case years earlier and determined that his action on 12 January 1964 did not constitute extraordinary heroism. He was not eligible for an increase in his retired pay. The Board also considered his actions on 12 January 1965 and reached a similar conclusion.

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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence to support the applicant's contentions for a 10 percent increase in his retired pay by virtue of receiving the Soldier's Medal. The Board recognized the applicant's cited heroism in Vietnam for his selfless acts. The record shows the applicant was awarded the Soldier's Medal for his selfless acts. The Board applauds the applicant's acts of heroism; however, they found his heroism did not meet the equivalent to that required for the award of the Distinguished Service Cross to be awarded the 10% increase in retired pay. The Board determined reversal of the previous Board decision is without merit and relief was denied.

2. The Army awards system recognizes and reacts to distinguishing acts of valor and bravery for Soldiers. The commander on the ground acts as a steward to ensure the proper recognition of our brave men and women. The Army has always been fully committed to the responsibility of properly recognizing Soldiers for their valor, heroism, and meritorious service through a fair and consistent decorations and awards policy and process.

a. The criteria for military awards are set forth in statutes, executive orders, and appropriate regulations. The criteria for the three highest valor awards are established by law and have not changed from what they were in past conflicts. Army regulation and policy establish the standards by which those awards are processed, approved, and presented.

b. Army policy allows any Soldier to recommend another Soldier for an award. The Army's awards program relies on those with first-hand knowledge of a Soldier's heroic or valorous action to recommend the Soldier for the appropriate award. Award recommendations are sent up through the Soldier's chain of command to company, battalion, brigade, division, and corps commanders. Commanders at every level of review can recommend approval or upgrade of the award based upon their authority. Commanders with authority to approve awards also have the authority to downgrade or disapprove awards based on their judgment, knowledge, and the criteria established for the award. Command involvement is critical for program success.

3. 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 Board found 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 to amend the decision of the ABCMR set forth in Docket Number AR20100024862 on 4 November 2010 and Docket Number AR20150008173 on 4 February 2016.

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. Army Regulation (AR) 600-8-22 (Military Awards) provides policy, criteria and administrative instructions concerning individual military decorations.

a. Paragraph 1-40 (Increased Retired Pay Based on Decoration – Enlisted Awards) states that Title 10 U.S. Code, section 3991, provides that any enlisted member who is credited with extraordinary heroism in the line of duty who retires after 20 or more years active Federal service is entitled to a 10-percent increase in retired pay, subject to the 75-percent limit in total retired pay. Any awardee of the Medal of Honor, Distinguished Service Cross, Navy Cross, or Air Force Cross satisfies the requirement for extraordinary heroism. An enlisted awardee of the Distinguished Flying Cross awarded for non-combat related heroism or the Soldier's Medal may be credited by the Secretary of the Army with extraordinary heroism only if it is determined that the heroism displayed was equivalent to that required for award of the Distinguished Service Cross. These provisions affect enlisted personnel who retire and who have been credited with extraordinary heroism whether or not such heroism was displayed while the individual was serving in an enlisted status.

b. Chapter 3 (U.S. Army Individual Decorations) states U.S. Army military decorations are awarded in recognition of heroism, meritorious achievement, or meritorious service. the glossary defines a "decoration" as a distinctively designed mark

of honor denoting heroism or meritorious/ outstanding service/achievement for individuals and units.

c. Section II (Terms) defines “extraordinary heroism” as an act or acts of heroism or gallantry involving the risk of life – minimum level of valorous performance in combat consistent with a recommendation for the Distinguished Service Cross.

d. Section II defines “heroism” as extreme courage demonstrated in attaining a noble end. Varying levels of documented heroic actions are necessary to substantiate recommendations for the Bronze Star Medal with “V” device, Air Medal with “V” device, and Army Commendation with “V” device. The phrase “in connection with military operations against an armed enemy” covers all military operations including combat, support, and supply which have a direct bearing on the outcome of an engagement or engagements against armed oppositions.

2. Army Regulation 15-185 (Army Board for Correction of Military Records), paragraph 2-11, shows applicant’s do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//