

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 August 2024

DOCKET NUMBER: AR20230014849

APPLICANT REQUESTS: reconsideration of the previous request to upgrade his previously awarded Army Commendation Medal to an Army Commendation Medal with "V" device.

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

- DD Form 149 (Application for Correction of Military Record) with letter requesting reconsideration dated 14 October 2023
- DA Form 4980-14 (Army Commendation Medal Certificate), 30 October 2009
- Permanent Orders 303-43, U.S. Army Human Resources Command (AHRC), 30 October 2009
- 2 pages, Translation from Ukrainian into English, Military of Justice of Ukraine with original
- Memorandum for Record, Proposed Citation for Bronze Star Medal, Commander, Headquarters, 1st Battalion, 4th Infantry Regiment, 21 December 2004
- Page 1, DA Form 638 (Recommendation for Award), Multi-National Division Central-South, 9 December 2004, with Citation to Accompany Award of the Bronze Star Medal with "V" device
- Letter, 1-page, AHRC, Awards and Decorations Branch, 20 July 2020
- Letter, AHRC, Awards and Decorations Branch, 29 October 2020
- Letter, AHRC, Awards and Decorations Branch, 13 July 2022
- 2-page Statement, Colonel AL, Ukrainian Army, Undated
- Orders Number 35, 3 February 2004, Minister of Defense Ukraine, Decorating Medal of the Ministry of Defense, Valor and Honor
- Memorandum, AHRC, Acceptance and Wear of Foreign Badges/Decorations, Ukrainian Order of Valor and Honor, 12 July 2005
- Memorandum for Record of Combat Action, First Lieutenant AK, Ukrainian Army, 18 January 2004
- Memorandum for Record, Commanding General Multi-National Division Central-South, Major General AT, Undated
- 3-page Letter, Commanding General Multi-National Division Central-South, Major General AT, Undated
- Letter, Review/Reconsideration Award Recommendation, Lieutenant General RSS, U.S. Army Retired, 13 May 2022

- DA Form 638 with Citation Page, Lieutenant General RSS, 8 June 2022
- Letter "again" requesting reconsideration dated 23 April 2024, with 10 previously noted enclosures

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 AR20220012140 on 1 June 2023.

2. The applicant provides new evidence or argument which warrants consideration by the Board.

3. The applicant states, in effect:

a. He was awarded The Ukrainian Order of Valor and Honor by the Ukrainian Ministry of Defense on 3 February 2004, in recognition of his actions on 1 November 2003. The medal arrived in the United States six months after the order was signed and was physically presented to him on 10 November 2004, at MacDill Air Force Base.

b. A report of his actions on the night of 1 November 2003 was made by the Ukrainian Contingent Commander to the Polish Commander of the Multi-National Division Central-South, who in turn cited him in dispatches to Lieutenant General RSS, U.S. Army, Commander of Coalition Joint Task Force-7. It should be noted that Lieutenant General RSS signed the DA Form 638 in June 2022 to complete the request for the upgrade of the Army Commendation Medal to an Army Commendation Medal with "V" device. He was the approving authority for the award in 2003.

c. At the time, the original request for award of the Bronze Star with "V" device was made in December 2003, the Coalition Support Team in support of the Multi-National Division Central-South consisted of himself and one other officer who submitted the DA Form 638. The unusual circumstances under which they served account in some measure for the lack of signatures on the DA Form 638.

d. He believes his actions on 1 November 2003 that were recognized with an award of a high national combat honor by the Ukrainian government lends additional credence to the documents submitted in his original package submitted to the Board in September 2022, and merit additional review.

4. The applicant previously stated, in effect, that he was originally recommended for a Bronze Star Medal with "V" device for his actions in Iraq in December of 2003. The recommendation was not processed and presumed lost. Recommendations were submitted a second and third time, and the applicant was ultimately awarded the Army

Commendation Medal in June of 2010. The Army Commendation Medal which was awarded to the applicant mentions his engagement and suppression of the enemy, but he did not receive the award with the "V" device, therefore he would like to have the award upgraded to reflect his actions.

5. His military record did not contain evidence of recommendation for the Bronze Star Medal with "V" device or the Army Commendation Medal with "V" device, but the applicant provided two incomplete DA Forms 638 for the Bronze Star Medal with "V" device and Army Commendation Medal with "V" device. Both DA Forms 638 were signed by their respective recommenders but lacked any other signatures.

6. The applicant was appointed as a commissioned officer of the Regular Army in the rank/grade of second lieutenant/O-1 on 19 May 1973 in the Infantry branch. On 31 May 2003, he was retired with an honorable characterization of service in the rank/grade of Colonel/O-6.

7. In a memorandum dated 28 May 2003, by Headquarters, U.S. Total Army Personnel Command, he was recalled to active duty on 1 June 2003 for a period of one year.

8. He stated on 1 November 2003, he was involved in a fire fight with enemy forces near the city of Al-Kut where he and a Ukrainian officer suppressed the enemy, forcing them to withdraw. The applicant stated that he was the only American on the patrol at that time, and as a result it had been difficult to document his actions for the proper award.

9. On 11 February 2009, the applicant applied to the ABCMR for reconsideration of the denial of the Bronze Star Medal with "V" device by AHRC. His case was closed and returned without prejudice and without action by the Board on 27 July 2009. He was advised to submit his award recommendation to AHRC for processing in accordance with Army Regulation 600-8-22 (Military Awards), paragraph 1-15.

10. AHRC retroactively awarded the applicant the Army Commendation Medal on 30 October 2009.

11. On 1 June 2023, after reviewing the application, all supporting documents, and the evidence found within his military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board noted that the applicant's military record did not contain evidence of recommendation for the Bronze Star Medal with "V" device or the Army Commendation Medal with "V" device, but he provided two incomplete DA Forms 638 (Recommendation for Award) for the Bronze Star Medal with "V" device and Army Commendation Medal with "V" device. Both DA Forms 638 were signed by their respective recommenders but lacked any other signatures. AHRC previously

considered his application and retroactively awarded him the Army Commendation Medal on 30 October 2009. Based on the preponderance of the evidence, the Board determined there was insufficient evidence to grant the requested relief.

12. In a letter to the Board dated 23 April 2024, the applicant once again requested reconsideration of his previous request for an upgrade of the Army Commendation Medal to the Army Commendation Medal with "V" device. The request is made in view of a statement made by Ukrainian Major General SIB which was recently obtained after significant efforts were made to locate him in Ukraine. His statement provides additional information regarding the case and sheds additional light upon the original request for award of the Bronze Star with "V" device submitted by an American officer assigned to Coalition Joint Task Force-7, Coalition Support Team #1 to the Polish-led Multi-National Division Central-South in December of 2003. The applicant believes the following points may be of value to the Board:

a. The action occurred while he was in support of Ukrainian troops. Only one Ukrainian officer at the scene of the incident spoke English. The action occurred at night under low visibility conditions. His actions were critical to the defeat of the enemy force and prevented death or injury to two Ukrainian soldiers and the loss of a vehicle by enemy action.

b. There was no official speculation or reporting of enemy casualties following the incident. The Ukrainians only reported what they could confirm. The Ukrainian Brigade Headquarters reported to Multi-National Division Central-South what they monitored on the radio during the action and subsequently what was reported during the debriefing of the action. Enemy casualties were suspected but not confirmed. Major General SB's statement provides more detailed information regarding his actions and the likelihood of enemy casualties as a result of those actions to defeat the ambush on 1 November 2003.

c. The Polish Multi-National Division Central-South Commander reported the action in person and in writing to the Commander, Combined Joint Task Force-7, Lieutenant General RSS, and cited his actions.

d. Recommendation for award of the Bronze Star Medal with "V" device was made to Headquarters Combined Joint Task Force-7 and Headquarters Multi-National Force-1 in 2003 and 2004 respectively by an officer assigned to Coalition Support Team-1 in support of the Multi-National Division Central-South. No action was taken until he made another submission in 2006. An Army Commendation Medal without the "V" device was approved in 2009.

e. At the time, the original request for award of the Bronze Star with "V" device was made in December 2003, Coalition Support Team-1 in support of the Multi-National

Division Central-South consisted of himself and one other officer who submitted the DA Form 638 after seeing the reports of the action of 1 November 2003. The unusual circumstances under which they served and their limited manning at the time accounts for the lack of signatures on the originally submitted DA Form 638 and the others subsequently submitted.

f. When informed of the specifics of this case and upon review of pertinent documents he had been sent by the Multi-National Division Commander in 2004, Lieutenant General (now retired) RSS wrote a letter in support of his request for the upgrade and personally prepared and signed a new DA Form 638 recommending upgrade of the Army Commendation Medal to an Army Commendation Medal with "V" device in June, 2022. Lieutenant General RSS was the approving authority for the award in 2003-2004 as Commander, Coalition Joint Task Force-7.

g. He was awarded The Ukrainian Order of Valor and Honor by the Ukrainian Ministry of Defense on 3 February 2004, in recognition of his actions on 1 November 2003. The award arrived in the United States six months after the order was signed and was presented to him on 10 November 2004, at MacDill Air Force Base. It should be noted that his actions on 1 November 2003 were cited for valor by four General Officers (General AT of Poland, General S of Ukraine who recommended award of the Ukrainian Order of Valor and Honor, General SIB of Ukraine, and most significantly, the approving authority for the originally submitted award, Lieutenant General (Retired) RSS, who has supported the upgrade of the Army Commendation Medal in writing. Several senior officers and veterans who encouraged him to continue to pursue this action are of the opinion that the evidence of the incident, his actions to defeat the enemy ambush, and the unfortunate bureaucratic mishandling of the award from 2003-2009 merit reconsideration and approval of the upgrade requested.

13. The applicant provides:

a. Permanent Orders 303-43, AHRC, 30 October 2009, with certificate which awarded him the Army Commendation Medal for meritorious achievement on 1 November 2003.

b. DA Form 638, Multi-National Division Central-South, 9 December 2004, which recommended the applicant for award of the Bronze Star Medal with "V" device.

c. Memorandum for Record, Commander, Headquarters, 1st Battalion, 4th Infantry Regiment, 21 December 2004, Proposed Citation for Bronze Star Medal.

d. Letter of Support, Lieutenant General, U.S. Army (Retired) RSS, 13 May 2022, supporting an upgrade to the Army Commendation Medal with "V" device.

e. Memorandum for Record, Commanding General Multi-National Division Central-South, Major General AT, undated, which states, in effect, the applicant distinguished himself on 1 November 2003, when a patrol from the Ukrainian Brigade Combat Team was ambushed by terrorists with small arms fire on the outskirts of Al Kut City in Wasit Province. The applicant and a Ukrainian officer assaulted the ambush position under fire, forcing the terrorists to break contact and hastily depart in a vehicle which the applicant engaged with rifle fire. He then placed a reinforcing, Quick Reaction Force in security positions and established a hasty checkpoint to inspect passing vehicles. His quick actions prevented friendly casualties and additional damage to a non-tactical vehicle that had its windows shot out by enemy fire during the initial engagement.

f. Letter from Commanding General Multi-National Division Central-South, Major General AT to the Commanding General Combined Joint Task Force-7, Lieutenant General RSS, undated, noting the totality of the applicant's tour of duty, his courage and combat skills, and how he distinguished himself, in part, during an enemy ambush in Al Kut City in a night action.

g. Memorandum for Record of Combat Action, First Lieutenant AK, Ukrainian Army, 18 January 2004, in which he states, in effect, on 1 November 2003 at approximately 2100 hours, he was traveling in a convoy of four vehicles outside of Al Kut. The convoy was ambushed by terrorists firing AK-47 rifles. The pick-up truck at the head of the column was damaged and went into a ditch by the side of the road. He was with Major General S and the applicant. All of them got out of the car. Major General S and the applicant fired at the terrorist position. The applicant directed him to secure the car. The applicant and Major General S then attacked the enemy position, moving about 110 meters from the car to a ditch opposite of the enemy position where the damaged car was located. The terrorists ceased firing. The applicant continued to fire on the terrorist position. The position was then attacked by a Ukrainian Quick Reaction Force infantry platoon that moved toward the damaged vehicle. Major General S and the applicant led the platoon over the enemy position and secured the site and the road. A search of the area was conducted, and a checkpoint was placed on the road. The applicant fired in the direction of a car fleeing the site at about 200 meters, but the terrorists got away. The action lasted about 30 minutes and the vehicle was recovered with damage to its windows and various bullet holes. There were no casualties, and the convoy went on to the Ukrainian Brigade base camp at Al Kut.

h. Undated letter from a Retired Ukrainian Army Colonel AL who states, in effect:

(1) He held the rank of major and was assigned as a translator/interpreter to the 5th Ukrainian Mechanized Brigade, Multinational Division-Central South in Al Kut, Iraq, August 2003 through March 2004. On the evening of 1 November, he was in the brigade headquarters when it was reported that a convoy of armored and other vehicles was ambushed about 5 kilometers east of the base. The convoy was returning from the

Iraq-Iran border where Ukrainian troops were based in an old Iraqi fort (city of Badra) and patrolled an assigned sector of approximately 150 kilometers. The reports indicated that one of their trucks was badly shot up, but there had been no Ukrainian casualties.

(2) When the convoy returned to the Al Kut Base Headquarters, he attended the debriefing conducted by several officers and the applicant to Major General S who had been with the convoy, and General SIB, the Brigade Commander. It was reported that the lead vehicle of the convoy had been fired on by 3 or 4 Iraqis believed to be former Iraqi soldiers. It was believed that all were armed with automatic guns. The convoy was far behind the ambushed vehicle and was not seen by the Iraqis in the darkness. The Iraqis engaged the vehicle with automatic fire and according to the applicant, their position was marked by their tracer ammunition which they fired in the direction of the truck. The driver and assistant driver escaped from the vehicle and took cover behind large rocks. The Iraqis ceased firing briefly when Major General S and the applicant fired their weapons in the direction of the ambush position. The applicant reported that he believed at least one Iraqi had been wounded. He then moved across the open area about 50 meters between his position and the location of the ambushed vehicle. After seeing that the two Ukrainian soldiers were not injured, he and Major General S came under automatic weapons fire from a nearby tree line. The applicant took cover in a ditch behind the ambushed truck and returned fire. It was reported that Ukrainian soldiers dismounted their armored vehicles and engaged the ambush position. The applicant continued to fire throughout this time even while under significant crossfire from both the Iraqis and the Ukrainian troops. He then moved from his position in the ditch and assaulted the ambush position. The Iraqis moved to a civilian car and escaped. The applicant fired at the car and placed fire into the rear window.

(3) It was reported that the applicant and several Ukrainian officers secured the ambush area with Ukrainian soldiers and stopped a dump truck driven by an Iraqi that entered the intersection. The driver was very scared. The Ukrainian Arabic interpreter reported that the driver said the ambush was conducted by criminals he referred to as "Ali Babbas." He said he passed the escaping car further down the road and that there was three men in the vehicle. One appeared to be hurt very badly. The convoy proceeded to the Ukrainian base without further incident. The ambushed truck was damaged but was able to drive as no bullets entered the engine. The report of the incident was passed to Division Headquarters and the applicant was commended for his actions and he was recommended for a decoration from the Ukrainian Army.

i. DA Form 638 dated 8 June 2022, recommending the applicant for the Army Commendation Medal with "V" device for his actions while leading an assault against an ambush position under fire and forcing the enemy to withdraw on 1 November 2003.

j. Memorandum from AHRC dated 12 July 2005, authorizing the applicant to accept and wear the Ukrainian Order of Valor and Honor.

k. Applicant letter dated 23 April 2024, again requesting reconsideration, and providing what he believes may be points of value to the Board.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Army Commendation Medal is awarded with V Device for valor or heroism, denoting an act or acts of heroism by an individual or unit above what is normally expected while engaged in direct combat with an enemy of the U.S. or an opposing foreign or armed force with exposure to enemy hostilities and personal risk. The applicant believes his actions on 1 November 2003 that were recognized with an award of a high national combat honor by the Ukrainian government lends additional credence to the documents submitted in his original package submitted to the Board in September 2022, and merit additional review.

a. The evidence shows the applicant was recognized for his achievement on 1 November 2003 by award of the Army Commendation Medal for his involvement in a fire fight with enemy forces near the city of Al-Kut where he and a Ukrainian officer suppressed the enemy, forcing them to withdraw. The applicant stated that he was the only American on the patrol at that time, and as a result it had been difficult to document his actions for the proper award.

b. The Board thoroughly reviewed the statements in support of the applicant's request, including the statements by foreign officers, and determined that the Army Commendation Medal remains the appropriate award for the applicant's actions on that date. He performed the duties and actions required of him as a Soldier confronting the enemy. However, those actions did not rise to the level required for a valor award. Therefore, the Board found insufficient evidence to warrant relief.

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 to amend the decision of the ABCMR set forth in Docket Number AR20220012140 on 1 June 2023.

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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. Army Regulation 600-8-22 (Military Awards) states:

a. the Army Commendation Medal is awarded to any Servicemember of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941 distinguishes himself or herself by heroism, meritorious achievement, or meritorious service. Award may be made to a member of the armed forces of a friendly foreign nation who, after 1 June 1962, distinguishes himself or herself by an act of heroism, extraordinary achievement, or meritorious service, which has been of mutual benefit to a friendly nation and the United States.

b. it may be awarded for combat related service or achievement after 29 February 1964.

c. awards of the Army Commendation Medal may be made for acts of valor performed under circumstances of lesser degree than required for award of the Bronze Star Medal. These acts may involve aerial flight. A bronze letter "V" (for valor) is worn on the suspension and service ribbon of that medal.

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.

//NOTHING FOLLOWS//