

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: October 2024

DOCKET NUMBER: AR20240000382

APPLICANT REQUESTS: reversal of the U.S. Army Human Resources Command, Awards and Decorations Branch that denied him retroactive award of the Combat Action Badge (CAB).

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- 7 Photos with Complex Attack Storyboard, 1 February 2023
- DA Form 2823 (Sworn Statement), Applicant, 12 February 2023
- DA Form 2823, JSWG, 12 February 2023
- DA Form 2823, KWC, 12 February 2023
- DA Form 4187 (Personnel Action), 2 March 2023
- Narrative to Accompany Award of the CAB
- Memorandum for Record (MFR), Assistant Detachment Commander, 19 May 2023
- DA Form 2166-9-2 (Noncommissioned Officer (NCO) Evaluation Report)
- Memorandum, Request CAB, Special Operations Command Africa, Chief of Staff, 30 May 2023
- MFR, Statement of Service, 8 June 2023
- Memorandum, Retroactive CAB, U.S. Army Human Resources Command (AHRC), 12 December 2023
- Orders: CP-152-0001, Headquarters, 101st Airborne Division (Air Assault) and Fort Campbell, 1 June 2023
- Enlisted Record Brief
- Letter, Army Review Board Agency (ARBA), 16 January 2024
- Letter, ARBA, 6 August 2024

FACTS:

1. In a self-authored narrative the applicant states, in effect:
 - a. While deployed July 2022 - to June 2023 with Joint Special Operations Task

Force - Somalia he and his team were located at the Military Assistance Group building co-located with the American Embassy in Mogadishu, Somalia. At the time, there were numerous hostile acts in vicinity of the Mogadishu International Airport where they conducted flight operations, vehicle movements, key leader engagements, etc. On 1 February 2023, their compound was attacked with 4 rounds (2 in their immediate vicinity and 2 fired over them) of 82mm mortars directly after their Somali partners were also attacked with 82mm mortars and small arms fire at their government sector Villa Somalia. During this event the team reacted to the attack that failed to trip the early warning system. For their actions that day, leadership submitted individuals for CABs. Subsequently, AHRC denied the request stating that individuals were not in reasonable distance of the munitions to warrant being engaged.

b. Listed on the documents the distance in question is 180m, which is the distance from the impacts to their Tactical Operations Center (TOC). Individuals were scattered around the compound outside hard cover conducting day to day operations. Per the most recent edition of the Ranger Handbook any indirect fires within 600m are constituted as Danger Close. Al-Shabaab militants utilize these systems at max range and per the current Army Risk Estimated Distances Table the probability of incapacitation of an 82mm mortar is 195m standing and 185m for prone. This data also does not constitute the secondary effects of if the round impacts flammable supplies or munitions. No U.S. personnel were injured although 1 Uganda People's Defense Force soldier was killed in action and 5 others were wounded in action. The applicant is advocating for the reconsideration of AHRC's decision per the data suggested by Army doctrine regarding the threat of indirect fires as well as the current precedent set for combat awards concerning indirect fires.

2. The applicant is currently serving in the Regular Army in military occupational specialty 11B (Infantryman) in the rank/grade of staff sergeant (SSG)/E-6.

3. The applicant provides, in part, a/an:

a. Self-authored statement providing further clarification on the details of his case. Not previously noted regarding the 1 February 2023 attack, is that one of the rounds hit a generator/fuel area causing a larger explosion leading them to believe they had possibly received a Suicide Vest Improvised Explosive Device to the rear of the compound. After providing intelligence to higher, he and members of his team immediately pushed to the point of contact to confirm or deny the assumption but then pulled security as members of the Worldwide Protection Staff securing embassy personnel while explosive ordnance personnel blew in place unexploded ordnance, and members of the Ugandan Peoples Defense force secured their dead and wounded. He claims a similar attack had previously taken place a year earlier in which personnel acted accordingly and received Combat Infantryman Badges (CIB) for their actions. Following the attack he was involved in he was recommended for the CIB until AHRC

informed Special Operations Command Africa that being an infantryman attached to a Security Assistance billet did not qualify.

b. 7 photographs purportedly of the 1 February 2023 mortar attack and a Complex Attack Storyboard, 1 February 2023, but may be speaking to an attack on 1 March 2022.

c. DA Form 2823 from the applicant dated 12 February 2023, in which he states, in effect, on 1 February 2023, SSG KWC served as the Military Information Support Team NCO when Al-Shabaab conducted a complex attack on the Mogadishu International Airport. At 0930 they began a complex attack on Villa Somalia and the International Campus by using several fighters, small arms, and indirect mortar fire. At 1300 SSG KWC was engaged with 4 rounds of 82mm mortar fire. He and the applicant immediately linked up outside the Military Assistance Group-Somalia perimeter after reacting to the impact of the first round and conducted a dismounted movement to the Military Assistance Group-Somalia building to report the attack to the Director because the indirect fire warning system failed to activate. The applicant and SSG KWC then began providing distance, direction, and disposition of the attack through the Military Assistance Group-Somalia security monitoring system. SSG KWC then moved under threat of fire to sweep for displaced personnel and to secure his protective equipment after which he returned to the TOC joining the applicant and others in security overwatch of the point of contact – the western edge of the U.S. Embassy and the United Nations entrance until members of the United Nations could secure the dead and wounded Ugandan People's Defense Force personnel.

d. DA Form 2823 from SSG KWC dated 12 February 2023, who claims, in effect, at 1300 on 1 February 2023, while standing outside, he and the applicant were engaged with 4 rounds of 82mm mortar fire. They reacted to the initial explosion and after reporting the attack, the applicant moved under threat of fire to sweep for displaced personnel and secure his personal equipment.

e. DA Form 2823 from Captain JSWG dated 12 February 2023, who claims, in effect, at 1300 on 1 February 2023, the applicant was engaged with 4 rounds of 82mm mortar fire. After reporting the attack, he moved under threat of fire to sweep for displaced personnel and secure his personal equipment.

f. DA Form 4187 and Narrative initiated 2 March 2023, requesting award of the CAB for engagement on 1 February 2023 at the Mogadishu International Airport. The applicant was within 180m, Danger Close, inside the Probability of Incapacitation from artillery impact and performed duties under fire.

g. MFR, Headquarters, 3rd Special Forces Group (Airborne), Assistant Detachment Commander, 19 May 2023, recommending the applicant to serve in the 75th Ranger

Regiment. Stated the applicant was calm under fire and executed tasks without hesitation while the camp was attacked by indirect fire on two occasions.

h. DA Form 2166-9-2 through May 2023 assessing his performance and potential as Security Assistance Cell NCOIC.

i. Memorandum to AHRC dated 30 May 2023, requesting the CAB under Stability Operations for the applicant based on his actions on 1 February 2023.

j. MFR, Joint Special Operations Task Force – Somalia, 8 June 2023, authorizing the applicant the Global War on Terrorism Expeditionary Medal, Overseas Service Ribbon and Overseas Service Bar.

k. Temporary Change of Station order, Enlisted Record Brief, and letters responding to Congressional Inquiries about his case.

4. Memorandum from AHRC, Chief, Awards and Decoration Branch, dated 12 December 2023, disapproving his and 4 other Soldiers requests for retroactive award of the CAB. The Chief stated the documentation submitted in support of the request did not provide sufficient justification to warrant retroactive approval for the incident in question. In accordance with Army Regulation 600-8-22 (Military Awards), paragraph 8-8, a Soldier must be personally present and under hostile fire while performing satisfactorily in accordance with the prescribed rules of engagement. The Soldiers in question were not within a reasonable distance to the point of impact of the indirect fire munition. Based on this, the Soldiers were not considered to have been directly engaged by the enemy.

5. The CAB is not intended to recognize Soldiers who simply serve in a combat zone or imminent danger area. In order to qualify for the CAB, 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 in accordance with the prescribed rules of engagement; and they must not be assigned or attached to a unit that would qualify the Soldier for the CIB or CMB. 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:

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 applicant contends on 1 February 2023, while deployed to Somalia their compound was attacked with 4 rounds (2 in their immediate vicinity and 2 fired over them) of 82mm

mortars directly after their Somali partners were also attacked with 82mm mortars and small arms fire at their government sector Villa Somalia. During this event the team reacted to the attack that failed to trip the early warning system. For their actions that day, leadership submitted individuals for CABs. Subsequently, AHRC denied the request stating that individuals were not in reasonable distance of the munitions to warrant being engaged. The Board thoroughly reviewed the applicant's statement as well as the supporting statements but did not believe the criteria for the CAB was met because the submitted documentation did not provide sufficient justification. For the CAB to be awarded, the Soldier must be personally present and under hostile fire while performing satisfactorily in accordance with the prescribed rules of engagement. The applicant in this case was not within a reasonable distance to the point of impact of the indirect fire munition. Based on this, the Board agreed with AHRC's determination that the applicant was not considered to have been directly engaged by the enemy.

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.

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 prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. Instructions state the requirements for award of the CAB 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 CAB. However, it is not intended to award the CAB to all Soldiers who serve in a combat zone or imminent danger area. Award of the CAB is not automatic and will not be awarded solely based on award of the Purple Heart. The CAB 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 in accordance with 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 CIB/CMB. For example, an 11B (Infantryman) assigned to Corps staff is eligible for award of the CAB. However, an 11B assigned to an infantry battalion is not eligible for award of the CAB.
- d. In addition to Army Soldiers, the CAB 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 CAB 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 CAB are as follows:
 - (1) Only one CAB may be awarded during a qualifying period.

(2) Second and subsequent award of the CAB 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 CAB are not authorized prior to 18 September 2001.

2. Army Regulation 15-185 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//