

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 September 2024

DOCKET NUMBER: AR20240000494

APPLICANT REQUESTS: correction of his record to show he was awarded the Combat Action Badge. A personal appearance before the Board via video or telephone.

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

- DD Form 149 (Application for Correction of Military Record)
- Witness letter (Sergeant (SGT) [REDACTED])
- Witness Letter [REDACTED]
- Witness Letter [REDACTED]
- Congressional email
- Army Review Boards Agency (ARBA) Congressional response

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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, while deployed with his unit that is now disbanded (B Battery 2nd Battalion, 321st Field Artillery Regiment which was part of the 4th Brigade Combat Team within the 82nd Airborne Division he was deployed to Afghanistan from January 2007 through April 2008. During that time, he had fought in both direct combat and indirect combat. Mortars, rockets, and small arms fire was fired at them with intent to harm them and in return he exchanged gun fire and artillery fire destroying the enemy. Every Soldier in his unit was awarded a Combat Action Badge during this deployment as was he, however, he misplaced his orders and never gave them to personnel.

3. A review of the applicant's official record shows the following:

a. On 25 October 2005, the applicant enlisted in the Regular Army to serve in military occupational specialty 13B (Cannon Crewmember).

b. The applicant served in Afghanistan from 22 January 2007 through 17 April 2008.

c. On 27 February 2009, the applicant was honorably released from active duty and transferred to the U.S. Army Reserve Control Group (Reinforcement). DD Form 214 (Certificate of Release or Discharge from Active Duty) shows in:

(1) Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):

- Army Commendation Medal
- Army Achievement Medal (2nd Award)
- Army Good Conduct Medal
- National Defense Service Medal
- Afghanistan Campaign Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon
- North Atlantic Treaty Organization Medal
- Parachutist Badge

(2) Item 18 (Remarks) service in Afghanistan 22 January 2007 through 17 April 2008.

d. The applicant's official records are void of orders awarding him the Combat Action Badge.

4. The applicant provides:

a. Witness letter authored by SGT [REDACTED] which states, during their unit's deployment to Afghanistan from January 2007 to April 2008 he was alongside the applicant. During the 15-month deployment they were attacked by the Taliban on several occasions. He can recall one time where they were at the Tani District Center in Afghanistan in April 2008 when their location was bombarded with rocket and mortar fire. The applicant saw a member of the Taliban running toward them carrying a weapon shooting at their building. The applicant shot and killed the guy. They were also shot at during a mission in "Maiwand" where the Taliban was shooting mortars at them, so they used their artillery and killed 13 Taliban fighters. They were hit with an Improvised Explosive Device (IED) in the beginning of their deployment, and they saw Taliban running away and they shot at them with their guns, a few were killed but the author is not sure how many.

b. Witness letter authored by [REDACTED] which states, he is a friend of the applicant's. He met the applicant in the Army. They deployed to Afghanistan together from January

2007 to April 2008. During their time overseas he was with the applicant practically every day of the deployment. He and the applicant along with their platoon faced heavy fire from the enemy on several occasions. He does not want to type too much because he will have a very bad day with his post-traumatic stress disorder. But he wants to confirm that they did face lots of fire and they of course fired back to destroy the enemy combatants. The applicant did get awarded his Combat Action Badge sometime during the deployment.

c. Witness letter authored by SGT [REDACTED] which states, the applicant asked him to write a short note summarizing why he deserved the Combat Action Badge, He cannot believe the Army let him separate without adding it to the applicant's DD Form 214. He still believes it is somewhere. When the unit deactivated a lot of records got destroyed so unfortunately, they may have thrown it out, but the author is sure it is somewhere because everyone got a Combat Action Badge. Anyway, what more can he say. Have the Army look up the 321st Field Artillery Regiment during our deployment in 07-08 and they will see all the action we got. I remember the time they were getting shelled by rockets and they were literally being walked in on them and he is not sure how they made it out alive, but they did. The mortars stopped once they fired back some high explosive 105mm rounds on their location. He thinks they killed six Taliban fighters that day. How about the time they were convoying to Jalalabad Airfield at night, and they had that firefight that lasted half an hour. He is surprised they made it out of that one. The applicant was his gunner on a 240B machine gun, and he witnessed the applicant letting at least 500 rounds off.

d. Congressional email related to the applicant's submission for award of the Combat Action Badge.

d. ARBA Congressional response letters wherein the Agency informed the Honorable [REDACTED] that his constituents case was under review.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the only evidence provided to support the events to support the possible awarding of the Combat Action Badge coming from peers of the applicant, with no statements from applicant's leadership at the time or any other documentary evidence to support the actions of the applicant (such as award recommendations or other documents), the Board concluded there was insufficient evidence of an error or injustice warranting awarding the Combat Action Badge.

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.

10/9/2024

X \_\_\_\_\_

CHAIRPERSON  
\_\_\_\_\_

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, USC, 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) in effect at the time states the Combat Action Badge is 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, 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.

- may be awarded to any Soldier
- Soldier must be performing assigned duties in an area where hostile fire pay or imminent danger pay is authorized
- Soldier must be personally present and actively engaging or being engaged by the enemy, and performing satisfactorily in accordance with the prescribed rules of engagement
- Soldier must not be assigned or attached to a unit that would qualify the Soldier for the Combat Infantryman Badge/Combat Medical Badge

3. AR 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 may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants 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//