

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 September 2024

DOCKET NUMBER: AR20240000904

APPLICANT REQUESTS:

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show the Legion of Merit (LOM)
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record), 27 November 2023
- DD Form 214, 31 March 1988
- DA Form 4980-11 (LOM Certificate), 1 April 1988

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 requesting his LOM be added to his DD Form 214. Additionally, he served with honor at the posts where the Army needed him. He would like to join the Veterans of Foreign Wars but was told he does not qualify. He served in the Panama Canal Zone, Virginia, Bolivia, Mexico, Afghanistan, India and Kelly Air Force Base. He attended the Sergeants Major Academy and was assigned to Wurzburg, Germany where he was promoted to Command Sergeant Major in 1984.
3. The applicant provides a DA Form 4980-11 dated 1 April 1988, awarded for his meritorious service from March 1978 to March 1988, culminating as the Command Sergeant Major, 112th Military Intelligence Brigade (Training), United States Army Intelligence School, Fort Devens, Massachusetts.
4. A review of the applicant's service records shows:

- a. On 7 October 1963, he enlisted in the Regular Army for a period of 4 years.
- b. His DA Form 2-1 (Personnel Qualification Record-Part II), section 9 (Awards, Decorations, and Campaigns), does not reflect the Legion of Merit.
- c. Orders 248-21, dated 30 December 1987, released him from active duty and authorized his retirement with an effective date of 31 March 1988.
- d. On 31 March 1988, he was retired. His DD Form 214 shows he completed 10 years, 3 months, and 24 days of active service with 14 years and 2 months of prior active service. It also shows he was awarded or authorized:

- Meritorious Service Medal (2nd oak leaf cluster)
- Army Commendation Medal (1st oak leaf cluster)
- Army Good Conduct Medal (8th award)
- National Defense Service Medal
- Noncommissioned Officer Professional Development Ribbon (5)
- Army Service Ribbon
- Air Force Outstanding Unit Award
- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)

5. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

6. By regulation (AR 600-8-22), the Legion of Merit is awarded to any service member of the Armed Forces of the United States or a friendly foreign nation who has distinguished himself or herself by exceptionally meritorious conduct in the performance of outstanding services and achievements. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.
2. In the absence of orders, the Board found the Legion of Merit Certificate provided by the applicant sufficient evidence to support relief. The Board noted the Legion of Merit is generally the appropriate retirement award for a Soldier with the applicant's rank and position. Based on a preponderance of the evidence, the Board determined the applicant's DD Form 214 should be corrected by adding the Legion of Merit.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by adding the Legion of Merit to his DD Form 214 for the period ending 31 March 1988.

3/4/2025

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, 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 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity.

a. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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.

3. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. The Legion of Merit is awarded to any service member of the Armed Forces of the United States or a friendly foreign nation who has distinguished himself or herself by exceptionally meritorious conduct in the performance of outstanding services and achievements. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

//NOTHING FOLLOWS//