

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 August 2024

DOCKET NUMBER: AR20240001272

APPLICANT REQUESTS: via two applications:

- First Application: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:
 - Rank/Grade of corporal (CPL)/E-4 vice specialist (SPC)/E-4
 - Awards of the Combat Action Badge, Air Assault Badge, HALO (High Altitude, Low Opening) Wings
- Second Application: correction of his DD Form 214 to show:
 - Military Occupational Specialty 92G2P (Food Service Specialist) vice 92G1P
 - Awards of the Purple Heart, Afghanistan Campaign Medal, Senior Parachutist Badge, and foreign awards

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

2XDD Form 149 (Application for Correction of Military Record)

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 submitted two DD Form 149 listing multiple awards. He essentially states he earned them.
3. The applicant enlisted in the Regular Army on 28 May 2008. He was trained in and held military occupational specialty (MOS) 92G, Food Service Operations Specialist.
 - a. Permanent Orders 304-3574, issued by Headquarters, U.S. Army Infantry Center, on 30 October 2008, awarded him the Parachutist Badge and MOS 92G1P.

b. His Enlisted Record Brief shows he served in Iraq from 20 August 2009 to 26 July 2010. It also shows he was promoted to specialist (SPC)/E-4 on 28 May 2010.

c. Permanent Orders 67-505, issued by Headquarters, 82nd Airborne Division, awarded him the Army Commendation Medal for service in support of Operation Iraqi Freedom from 21 August 2009 to 10 August 2010.

d. On 24 March 2011, the Commanding General, 82nd Airborne Division reprimanded the applicant for driving while impaired on 18 March 2011. He was arrested after a State Trooper stopped him for speeding 72 mph in a 45 mph speed zone. A breathalyzer test administered determined his blood alcohol content to be .17%, which is over the legal limit authorized to operate a motor vehicle in the State of North Carolina.

e. On 1 June 2011, the applicant's immediate commander notified the applicant of his intent to separate him under chapter 14-12b of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations). Specific, factual reason(s) for action recommended: Soldier operated a motor vehicle while under the influence of alcohol and was drunk and disorderly.

f. After the applicant exercised his rights, consulted with counsel, and made his elections, the immediate commander-initiated separation. The chain of command recommended approval.

g. On 15 June 2011, the separation authority approved the discharge action and ordered the applicant discharged with an under honorable conditions discharge.

h. The applicant was discharged on 14 July 2011. His DD Form 214 shows he was discharged under the provisions of chapter 14-12b of AR 635-200 for a pattern of misconduct, with a general, under honorable conditions characterization of service. His DD Form 214 shows he completed 3 years, 1 month, and 17 days of active service. It also shows in:

- Blocks 4a (Grade, Rate or Rank) and 4b (Pay Grade) SPC and E-4
- Block 11 (Primary Specialty) 92G1P, Food Service Operations
- Block 12i (Effective Date of Pay Grade) 2 May 2010
- Block 13 (Decorations, Medals, Badges, Citation and Campaign Ribbons Awarded or Authorized)
- Army Commendation Medal
- Army Achievement Medal
- Meritorious Unit Commendation
- National Defense Service Medal

- Global War on Terrorism Service Medal
- Army Service Ribbon
- Parachutist Badge

- Block 18 (Remarks), service in Iraq 20 August 2009 to 26 July 2010

i. On 19 July 2021, the Board granted him relief in the form of adding an Overseas Service Ribbon to his DD Form 214. As such, on 16 December 2021, he was issued a DD Form 215 (Correction to DD Form 214) that added this ribbon.

4. There is no evidence in the applicant's records, and he provides none to show:

- a. He was laterally appointed to the rank/grade of CPL. There are no orders, memorandum, or reference on any forms of the grade of CPL.
- b. He was recommended or awarded the Combat Action Badge.
- c. He completed the Air Assault Course and/or was awarded the Air Assault Badge
- d. He attended the Army's Military Free Fall Parachutist Course and/or became a qualified HALO jumper.
- e. He was wounded as a result of hostile action and required medical treatment or was awarded the Purple Heart.
- f. He deployed to Afghanistan and/or qualified for the Afghanistan Campaign Medal
- g. He attended and completed the Jumpmaster Course and completed the number of jumps required for award of Senior Parachutist Badge.
- h. He was awarded any foreign awards and such awards were approved by HQDA to acceptance and wear.
- i. He was promoted to the rank/grade of sergeant (SGT)/E-5 that would have warranted awarding him an MOS with skill and grade level 2 which is commensurate with a SGT/E-5.

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 his record is absent evidence that shows he was promoted to SGT/E-5 which would have aligned with the applicant being awarded a MOS skill and grade level 2 prior to his discharge. Based on regulatory guidance, promotion to SGT/E-5 are announced with official orders

2. The Board noted, the applicant's record lacks sufficient evidence of any medical documentation showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. Per the regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his service records substantiating evidence to verify that he was injured, the wound was the result of hostile action, the wound must have required treatment by medical personnel, and the medical treatment must have been made a matter of official record. The Board agreed, based on the evidence the applicant did not meet the criteria for award of the Purple Heart.

3. The Board determined the applicant provided insufficient evidence that indicates that his chain of command approved or that he was ever awarded the request combat action badge. The Board found evidence the applicant met the regulatory guidance, which states a Soldier must be executing 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.

4. Furthermore, the Board determined the applicant's record is absent any evidence he completed the Air Assault Course and/or was awarded the Air Assault Badge, attended the Army's Military Free Fall Parachutist Course and/or became a qualified HALO jumper, attended and completed the Jumpmaster Course and completed the number of jumps required for award of Senior Parachutist Badge. The applicant's record is void any orders that support he was deployed to Afghanistan and/or qualified for the Afghanistan Campaign Medal. The Board found no evidence to support the applicant's contentions he should be awarded any foreign awards and such awards were approved by HQDA to acceptance and wear. Based on the lack of evidence to support the applicant's request, the Board denied relief.

5. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

Except for the correction addressed in Administrative Note(s) below, 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 for correction of the records of the individual concerned.

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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.

ADMINISTRATIVE NOTE(S):

A review of the applicant's records shows he is authorized additional awards not annotated on his DD Form 214 for the period ending 14 July 2011. As a result, amend his DD Form 214 by adding the Iraq Campaign Medal with 1 bronze service star.

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 600-8-22 (Military Awards) provides for the following awards:

a. Purple Heart: The Purple Heart is an entitlement and differs from all other awards and does not require an exception or waiver for presentation. Each approved award of the Purple Heart must exhibit all the following factors: (a) Wound, injury, or death must have been the result of enemy or hostile act, international terrorist at-tack, or friendly fire (as defined in paragraph 2 – 7); the wound or injury must have required treatment by medical official, and (c) The records of medical treatment must have been made a matter of official Army records as de-scribed in paragraph 2 – 7.

b. Combat Action Badge: The requirements for award of the Combat Action Badge are branch and MOS 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. 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. A Soldier must also be executing 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 dan-ger pay is authorized.

c. Air Assault Badge: The basic eligibility criteria consist of satisfactory completion of an air assault training course according to the TRADOC (Training and Doctrine Command) standardized Air Assault Core Program of Instruction. Commanders of divisions and separate brigades operating Air Assault Courses in accordance with TRADOC standardized Air Assault Core Program of Instruction are authorized to award the Air Assault Badge.

d. Senior Parachutist Badge: For award of the Senior Parachutist Badge, the member must meet the coflowing requirements: 30 jumps to include 15 combat equipment jumps, 2 night jumps, 2 mass tactical jumps, and occupying an appropriate position, the member must be obtained by static line parachuting: Either graduated from the Jumpmaster Course of the Airborne Department of the Infantry School or the Jumpmaster School of a separate airborne battalion size or larger airborne unit; infantry divisions and separate infantry brigades containing organic airborne elements, to include the U.S. Army Alaska Jumpmaster Course; or served as jumpmaster on one or

more combat jumps or as a jumpmaster on 15 noncombat jumps; or has served on jump status with an airborne unit or other organizations authorized parachutists for a total of at least 24 months.

d. To become a HALO jumper in the army, one must attend the Army's Basic Airborne Course and complete the required number of jumps. The member must attend the Army's Military Free Fall Parachutist Course and become a qualified halo jumper.

e. Afghanistan Campaign Medal: Individuals authorized the Afghanistan Campaign Medal must have served in direct support of Operation Enduring Freedom from 11 September 2001 to 31 December 2014 and Operation Freedom's Sentinel from 1 January 2015 to 31 August 2021. The Area of Eligibility encompasses all land area of the country of Afghanistan and all airspaces above the land.

3. Army Regulation 600-8-19 (Enlisted Promotions and Reductions) provides for enlisted promotions and reduction. The CPL rank serves as the foundation of NCO ranks. Established in 1775, the CPL rank is bestowed on Soldiers who serve as the leaders of the smallest U.S. Army units—principally as team leaders. They are charged with the care, training, education, and readiness of their team while also maintaining and enforcing Army standards. Wear of the CPL rank signifies that the Soldier who wears it has transitioned from the junior enlisted ranks to become a member of the professional NCO Corps, the backbone of our Army. The wear of the CPL rank throughout our NCO Corps forms a key component to a comprehensive junior leader development program. SPCs will be laterally appointed to the rank of CPL, without exception, when they are both integrated into the PRR and upon graduation of the BLC (Basic Leader Course), regardless of the grade of the position to which they are assigned. The Rank Entry Date will be the date the Soldier graduates BLC. The GED remains unchanged. Because attendance at the BLC requires the Soldier be first recommended for promotion to SGT, the HR system of record will laterally appoint Soldiers to CPL and issue the supporting orders.

4. Army Regulation 635-8 (Separation Processing and Documents) states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge.

a. Block 4: Grade, Rate, or Rank. Verify that active duty grade or rank and pay grade are accurate at time of separation.

b. Block 11: Primary Specialty. Enter the titles of all MOSs awarded and held for at least 1 year during the current period of service and include for each MOS the number of years and months held. For time determinations, 16 or more days counts as a month. Do not count time in training (basic training, advanced individual training, Basic Officer's

Leader Course, or MOS-producing school). Primary specialty MOS is awarded by Service school completion or by publication of orders awarding the MOS. For an enlisted Soldier, specify the first five characters of the military occupational specialty code (MOSC), which includes three characters of the MOS, the fourth character of skill and grade level in the MOS, and the fifth character of a special qualification identifier, if applicable. Enter "O" when not applicable. A single additional skill identifier may be listed immediately following the five-character MOSC.

c. Block 12i, Effective Date of Pay Grade. From the most recent promotion document (or reduction instrument), enter the effective date of promotion or reduction to the current pay grade. Do not confuse with date of rank. Soldiers who have served in ranks corporal, first sergeant, or command sergeant major often have a date of rank different from the effective date of pay grade.

d. Block 13: Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized. List all federally recognized awards and decorations for all periods of service. Do not use abbreviations. Do not enter foreign or State level awards on DD Form 214. State awards and decorations will be entered on NGB Form 22 upon separation from the ARNG.

//NOTHING FOLLOWS//