

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 November 2024

DOCKET NUMBER: AR20240001560

APPLICANT REQUESTS: award of the Army Good Conduct Medal (AGCM) and a personal appearance hearing before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)

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, in effect, during his qualifying period for the AGCM his record of service indicates that he willingly complied with the demands of the military environment, was loyal and obedient to his superiors, faithfully supported the goals of his organization and the Army and conducted himself in an exemplary manner as to distinguish him from his fellow Soldiers. His record of awards and achievements as well as a lack of any disciplinary action clearly displays a good character of service. There was no disqualifying action in his records that would have barred recommendation or qualification for the award. He believes that this action was missed or overlooked.
3. The applicant enlisted in the Regular Army on 7 May 2012. He served in military occupational specialty 68K (Medical Laboratory Specialist).
4. On 12 April 2016, he retired honorably due to temporary disability in the rank/grade of specialist four/E-4. The DD Form 214 he was issued shows he completed 3 years, 11 months and 6 days net active service during this period. Item 12f (Foreign Service) shows 1 year and 1 day of foreign service. The form further shows he was awarded or authorized the:

- Army Achievement Medal
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Korea Defense Service Medal
- Army Service Ribbon
- Overseas Service Ribbon

5. There is no evidence in the available records that shows he was awarded the AGCM nor is there evidence of a commander's disqualification for the award. Additionally, there is no evidence of any convictions by courts-martial or receipt of nonjudicial punishment under Article 15, Uniform Code of Military Justice.

6. There is no right or entitlement to the AGCM until the immediate commander approves the award and the award is announced in permanent orders, however, although there is no automatic entitlement to the AGCM, disqualification must be justified.

#### BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant served continuously on active duty from 7 May 2012 to 12 April 2016, before he retired for disability. He completed 3 years, 11 months and 6 days net active service during this period. His record does not reflect any lost time or any derogatory information that would have disqualified him from receiving his first award of the Army Good Conduct Medal, or a commander's disqualifying memorandum for this award. The Board determined he met the criteria to be awarded the Army Good Conduct Medal (1st Award).

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:

- awarding the applicant the Army Good Conduct Medal (1st Award) for service during the period 7 May 2012 through 6 May 2015
- adding award of the Army Good Conduct (1st Award) to his DD Form 214

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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. 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) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards and states the AGCM is awarded to individuals who distinguish themselves by their conduct, efficiency, and fidelity. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of active Federal military service. There is no right or entitlement to the medal until the immediate commander has approved the award and the award has been announced in permanent orders. Although there is no automatic entitlement to the AGCM, disqualification must be justified.

3. 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 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. 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//