

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 February 2025

DOCKET NUMBER: AR20240002792

APPLICANT REQUESTS:

- In effect, require the U.S. Army Human Resources Command (HRC) and Army Decorations Board's to review two awards recommendations, submitted under Title 10 (Armed Forces), U.S. Code, section 1130 (Consideration of Proposals for Decorations not Previously Submitted in Timely Fashion: Procedures for Review)
- Correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show a Certificate of Achievement, granted in 2006; his completion of a 40-hour Driver's Training Course, in 2007; and a Sergeant Major of the Army Operation Smart Award Certificate, awarded in 2008
- In effect, reconsideration of his earlier request to restore his rank to sergeant (SGT)/E-5 by setting aside a nonjudicial punishment (NJP) action, accepted on 22 April 2008 under the provisions of Article 15, Uniform Code of Military Justice (UCMJ)
- Reconsider his previous requests to upgrade his general discharge under honorable conditions and amend his separation and reentry codes and narrative reason for separation
- Reconsider his prior request for a medical retirement
- Reconsider his earlier request to remove derogatory information from his official military personnel file (OMPF)
- Permission to appear personally before the Board, via video/telephone

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

- Three DD Forms 149 (Application for Correction of Military Record)
- DD Form 293 (Application for the Army Discharge Review Board (ADRB))
- Applicant's request for assistance from his U.S. Congressman
- Four DA Forms 2823 (Sworn Statement)
- Three pages of Standard Form 600 (Health Record – Chronological Record of Medical Care)
- Clinical Practice Guideline, Military Acute Concussion Evaluation (MACE)
- Temporary Change of Station Orders
- Two HRC Unit Award Permanent Orders (PO)
- CIDNE Improvised Explosive Device (IED) Report and associated documents

- DD Form 214 with two DD Forms 215 (Correction to DD Form 214)
- HRC Individual Award PO, announcement letter, U.S. Army Tank-Automotive and Armament Command Acknowledgement
- DA Form 4980-10 (Purple Heart Certificate)
- HRC webpage
- Four DA Forms 638 (Recommendation for Award)
- Army Commendation Medal with "V" Device Narrative
- Five DA Forms 4980-14 (Army Commendation Medal Certificate)
- U.S. Senator Letter
- Headquarters, 7th Infantry Division and Fort Carson PO
- Three DA Forms 4980-18 (Army Achievement Medal Certificate)
- Rear Detachment, Personnel Services Battalion PO
- Headquarters, 10th Special Forces Group (Airborne) PO
- Three Training Completion documents
- Brigade Certificate of Achievement, dated in November 2006
- Sergeant Major of the Army Operation Smart Award Certificate
- Deployment Experience
- Medical Education/Consent
- Seven letters of support
- Department of Veterans Affairs (VA) doctor's letter
- VA letter
- Army Review Boards Agency (ARBA) letter
- "Kurta Memo"
- Enlisted Record Brief
- State certifications
- Background Investigation
- Brigade Support Battalion Certificate of Training, Driver's Training Course, 40 hours
- Eight Certificates
- 2-Star Note
- U.S. Senator's Note
- Governor's Letter of Appreciation

FACTS:

1. Incorporated herein by reference are military records, as were summarized in the previous considerations of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Numbers:

- AR20100015727, on 18 January 2011
- AR20120022166, on 3 September 2013
- AR20150003181, on 8 December 2015

- AR20160000472, on 16 December 2016
- AR20170011438, on 6 May 2019
- AR20170014227, on 28 May 2020

2. Per Army Regulation (AR) 15-185 (ABCMR), paragraphs 2-8 (Criteria) and 2-15 (Reconsideration of ABCMR Decision), reconsideration requests are only acted upon if the applicant provides new evidence not previously considered by the Board. The below-listed requests are all supported by documents previously considered in the above-cited ABCMR Docket Numbers; as such, these requests will not be further addressed in this record of proceedings:

- Upgrade of his general discharge under honorable conditions to an honorable character of service; amendment of his separation and reentry codes and his narrative reason for separation
- Restoration of his rank to SGT/E-5 by, in effect, setting aside an NJP action, accepted on 22 April 2008
- Granting a medical retirement
- Removal of derogatory information from his official military personnel file (OMPF)

3. Concerning his requests to amend his DD Form 214:

a. Concerning his request to add two Certificates of Achievement:

(1) The DD Form 214's governing regulation: (AR 635-8 (Separation Processing and Documents)) states item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) is to list all Federally recognized awards and decorations, to include personal decorations, such as the Army Commendation Medal.

(2) While AR 600-8-22 (Military Awards) authorizes commanders and the Sergeant Major of the Army to issue certificates of achievement when they wish to acknowledge outstanding duty performance, such recognitions do not meet the regulatory requirements for personal decorations and are not listed on the DD Form 214. Therefore, this issue will not be discussed further in these proceedings.

b. Regarding the applicant's request to add his Certificate of Training for a 40-hour Brigade Support Battalion Driver's Training Course, the course is already listed on his DD Form 214 in item 14 (Military Education). Since there is no error to correct, this issue will not be discussed further in these proceedings.

4. The applicant states, in effect, on 29 April 2008 and while serving in Iraq, the vehicle in which he served as truck commander blew up after an IED explosion.

a. Based on that event, the applicant's command awarded three Army Commendation Medals with "V" Device, and a fourth award was supposed to be given to the applicant; however, his unit never forwarded his DA Form 638 to higher headquarters for approval. The applicant notes that almost four years later he finally received his Purple Heart for the wounds he sustained. He adds that the unit also failed to award him an end-of-tour Army Commendation Medal with "C" Device.

b. The applicant submitted a request, under the provisions of Title 10, U.S. Code, section 1130, for both the Army Commendation Medal with "V" Device and Army Commendation Medal with "C" Device; however, in October 2017, his U.S. Senator informed him HRC had denied his request and recommended he file an application with the Board.

3. The applicant provides the following:

a. Three DA Forms 2823:

(1) On 11 May 2008, SGT D\_\_ O. C\_\_ stated that, on 29 April 2008 and while traveling on Route Gold, an IED hit the vehicle behind him. He radioed back to (female) Specialist (SPC/E-4) T\_\_, who told him everyone in the truck was fine but that the truck would not move. SGT C\_\_ had to push SPC T\_\_'s vehicle to the next security element location. On their return to the barrier yard, medics evaluated both SPC T\_\_ and the applicant.

(2) On 1 May 2008, SPC Y\_\_ T\_\_ stated that, at around 0800, she and the applicant were on their third trip to a drop site when an IED struck their vehicle. The IED exploded on the applicant's side and caused the door to swing open, and it blasted the window. She told the applicant to call in the IED strike, but he just kept staring at the door. When she told the applicant to close the door, he did, and SPC T\_\_ then radioed in what had happened. She asked the applicant if he was okay, and he responded that he was. They kept on moving and, minutes later, a medic got on the truck and checked on the applicant. When they arrived at the barrier yard, the unit's medic did an assessment for both SPC T\_\_ and the applicant.

(3) On 1 May 2008, Sergeant First Class ((SFC)/E-7) S\_\_ P. P\_\_ stated that, on 29 April 2008, he was the convoy commander, and he received a radio call alerting him that an IED had struck one of the convoy vehicles; SPC T\_\_ provided a damage assessment. On the vehicle's return to the barrier yard, both SPC T\_\_ and the applicant underwent medical evaluations.

b. DA Forms 638, one of which is not legible; the remaining forms show the following:

(1) An undated DA Form 638, submitted by SFC S\_\_ P. P\_\_, recommending the applicant for the Army Commendation Medal with "V" Device for valorous actions, performed on 29 April 2008.

(a) The noted achievements were:

- During Operation Gold Rush, the applicant was a truck commander and an IED struck his vehicle; the applicant remained calm and in control, despite hitting his head; he contacted the convoy commander and reported what had occurred
- After being medically evaluated, the applicant returned to the site and continued the mission

(b) Respectively, on 13 and 15 June 2008, the applicant's company and battalion commanders recommended approval. While the approval authority section has the approval box checked and the form includes a signature in the brigade commander's signature box, there are no dates and there is no PO Number.

(2) DA Form 638, dated 15 July 2008, shows the applicant's first sergeant (1SG) recommended him for an Army Commendation Medal based on service performed during the period 2 December 2007 to 5 March 2009. Both the applicant's company commander and battalion commander recommended approval. The approval authority's section, dated 28 July 2008, contains a signature for the brigade commander, but the orders section is void of a PO Number.

(3) A DA Form 638, recommending a Soldier assigned to the applicant's unit for an Army Commendation Medal, based upon meritorious service, completed between December 2007 and March 2009.

c. Two DA Forms 4980-14, indicating both SGT D\_\_ O. C\_\_ and SPC Y\_\_ T\_\_ received Army Commendation Medals with "V" Devices for their actions, on 29 April 2008.

d. Operational Reports, describing the 29 April 2008 IED incident.

e. Documents reflecting the applicant's post service accomplishments, to include a letter from his State governor, State certifications, and membership and course completion certificates.

4. A review of the applicant's service record shows the following:

a. On 12 February 2003, the applicant enlisted into the Regular Army for 4 years; upon completion of initial entry and airborne training and the award of military

occupational specialty 42A (Human Resources Specialist), orders assigned him to Fort Carson, CO; he arrived at his new duty assignment, on or about 13 August 2003.

b. On 11 November 2004, the applicant deployed to Iraq; he redeployed, on 1 April 2005. On 22 May 2006, the applicant deployed a second time to Iraq; he redeployed 7 months later, on 11 November 2006. Effective 4 October 2006, the applicant immediately reenlisted for 6 years. On 2 December 2007, the applicant deployed for a third time to Iraq. Effective 1 March 2008, the applicant's leadership promoted him to SGT.

c. On 18 April 2008, the applicant's unit initiated a flagging action against the applicant. On 22 April 2008, the applicant accepted NJP after his battalion commander charged him with leaving his post as a sentinel without being properly relieved, and then departing his duty section with the intent to abandon it. The imposing commander's punishment included a demotion, from SGT to SPC, but the commander suspended that punishment until October 2008.

d. On 29 April 2008, while serving as a truck commander in a convoy, the applicant sustained injuries following an IED exploded and disabled his vehicle. After undergoing a medical evaluation, the applicant continued his mission as truck commander in the convoy.

e. On 15 July 2008, the NJP imposing commander vacated the applicant's suspended reduction after the applicant failed to report to his place of duty. Also, on 15 July 2008, the applicant's unit removed the flag.

f. On 14 August 2008, the applicant accepted NJP for fraudulently changing SPC Y\_\_ T\_\_'s statement so that it indicated the applicant had hit his head and lost consciousness due to the 29 April 2008 IED explosion. The punishment included reduction to PFC.

g. On 30 August 2008, the applicant's company commander initiated a bar to reenlistment against the applicant, citing three prior NJP actions; on 30 August 2008, the battalion commander approved the bar.

h. On 10 September 2008, the applicant's unit initiated a flag against the applicant because he was pending administrative separation. On or about 9 October 2008, the applicant's commander advised him, via memorandum, that he intended to separate the applicant under the provisions of paragraph 14-12b (Patterns of Misconduct), AR 635-200 (Active Duty Enlisted Administrative Separations); the commander cited the applicant's three NJPs as his basis.

i. At some point prior to 24 November 2008, the separation authority approved the commander's separation recommendation and directed the applicant's general discharge under honorable conditions. On 12 December 2008, the Army separated the applicant with a general discharge. His DD Form 214 shows he completed 5 years, 10 months, and 1 day of net active duty service. Item 13 listed no awards.

j. On 26 May 2010, the applicant petitioned the ABCMR, requesting an upgraded character of service and that his DD Form 214 be revised to list all of his awards. On 18 January 2001, the Board denied the applicant's upgrade request but granted the applicant's awards requests by directing the issuance of a DD Form 215; the form listed the following awards:

- Army Commendation Medal (2nd Award)
- Army Achievement Medal (3rd Award)
- Army Good Conduct Medal (1st Award)
- Valorous Unit Award
- National Defense Service Medal
- Army Service Ribbon
- Overseas Service Ribbon
- Driver and Mechanic Badge with Driver "W" Component Bar
- Marksman Marksmanship Qualification Badge
- Combat Action Badge
- Global War on Terrorism Expeditionary Medal
- Global War on Terrorism Service Medal
- Iraq Campaign Medal with two bronze service stars

k. On 2 December 2011, HRC PO awarded the applicant the Purple Heart; HRC issued the applicant a DD Form 215.

l. On 4 February 2015, the applicant requested the Board to correct his DD Form 214 by adding unit awards, an Army Commendation Medal with "V" Device, and an Army Commendation Medal (3rd Award). He noted that HRC had awarded him the Purple Heart.

m. On 5 February 2015, HRC advised the applicant's U.S. Representative that the applicant's award recommendations for Army Commendation Medal with "V" Device, and an Army Commendation Medal (3rd Award) would not be reviewed by the Army Decorations Board.

- HRC pointed out that awards were not automatic, and incurring injuries in combat did not entitle an individual to additional valor medals

- To qualify for an Army Commendation Medal with "V" Device, the applicant's recommendation had to convey and offer details about the specific valorous acts performed by the applicant
- As to the Army Commendation Medal (3rd Award), HRC noted the DA Form 638 submitted was missing a PO Number and recommended the applicant contact his former unit and ask them to check their archived records to see if a PO had ever been issued

n. On 8 December 2015, after denying the applicant's request to add the Army Commendation Medal with "V" Device and Army Commendation Medal (3rd Award), the Board directed the reissuance of the applicant's DD Form 214 so that it included the Purple Heart and all authorized individual and unit awards.

o. On 28 April 2017, the applicant asked the Board to add his continuous honorable service, completed prior to his 4 October 2006 immediate reenlistment. On 19 November 2019, ARBA provided the applicant a DD Form 215, showing his continuous honorable service.

p. On 3 October 2017, HRC sent the applicant's U.S. Senator a letter stating no action would be taken on the applicant's requests for the Army Commendation Medal with "V" Device and Army Commendation Medal (3rd Award).

(1) "As stated in our previous correspondence with another member of Congress on August 21, 2015, [applicant's] separation packet contains several documents which relate directly to this inquiry."

(a) "[Applicant] was punished under the Uniform Code of Military Justice for altering statements from a fellow Soldier in order to support his entitlement to the Purple Heart, for the event he is also requesting the Army Commendation Medal with "V" Device, and for entering into his record documentation to support his entitlement to an Army Commendation Medal which he had not been awarded."

(b) "This pattern of behavior among other disciplinary issues ultimately resulted in his early redeployment from Iraq and an involuntary separation from the Army. His past actions and the inconsistencies in the forms he provided for review in this matter force us to question the validity of the provided documents."

(2) Based on the foregoing, HRC questioned the authenticity of the award recommendations and determined they could not process the applicant's requests. If the applicant felt this response was unfair, he could petition the ABCMR.

5. AR 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, states an applicant is not entitled to a hearing before the Board; however, the

request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

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 available documentation, the Board made the following findings and recommendations related to the requested relief:

- Review two awards recommendations: DENY, based upon submitting and approving an individual for any award is a leader/command decision. Additionally, in the board's opinion, some entries on the award recommendations are called into question for the following reasons: (1) there are multiple copies of the award recommendations in the packet. All of the recommendations appear with the brigade commander's signature, some copies of the recommendation have no date; others appear with both. For the board, this called into question when and if the brigade commander signed the recommendation at all; (2) the adjutant's signature is called into question because a signature at that location on the document is usually completed when an award order is completed. There is no order number on the document. If the applicant can obtain statements from the commanders who signed the recommendation, he may submit a request for reconsideration.
- Add certificates to his DD Form 214: DENY, per regulatory guidance, certificates are not placed on DD Form 214s.
- Set aside Article 15/restore rank: DENY, based upon the available evidence showing the applicant was afforded all due process rights at the time of the Article 15 hearing. As a result, the Board found a lack of justification for setting aside the Article 15 and restoring the applicant's rank.
- Upgrade Discharge characterization: DENY, based upon the pattern of misconduct leading to the applicant's separation, including the changing of another's statement.
- Award medical retirement: DENY, based upon a lack of evidence showing any of the applicant's medical conditions failed retention standards prior to the time of separation. The available documentation shows the applicant was evaluated for a MEB by behavioral health and neurology prior to discharge; all parties determined he met medical retention standards

- Remove derogatory information: DENY, based upon the lack of proper justification for removing any documents from the applicant's record.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

//SIGNED//

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. Army Regulation (AR) 600-8-22 (Military Awards), currently in effect, prescribes policies and procedures for military awards.
  - a. Paragraph 1-14 (Time Limitation). Recommendations for awards must be administratively entered into military channels within 2 years of the act, achievement, or service to be honored. Award recommendations submitted beyond the 2-year time limit can be considered under the provisions of Title 10 (Armed Forces), section 1130 (Consideration of Proposals for Decorations not Previously Submitted in Timely Fashion: Procedures for Review).

b. Paragraph 3-19 (Army Commendation Medal). The Army Commendation Medal is awarded to any Servicemember of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941, distinguishes themselves by heroism, meritorious achievement, or meritorious service. After 29 February 1964, the award can be granted for combat-related service or achievement.

(1) The Army Commendation Medal may be made for acts of valor performed under circumstances described above which are of lesser degree than required for award of the Bronze Star Medal. A bronze letter "V" (for valor) is worn on the suspension and service ribbon of that medal.

(2) On or after 7 January 2016, the Army Commendation Medal ARCOM may be awarded with the "C" device to recognize exceptionally meritorious service or achievement performed under combat conditions.

c. Chapter 3 (U.S. Army Individual Decorations) and Appendix F (Initial Consideration/Reconsideration of an Award through a Member of Congress), instructs the award recommender (normally someone other than recipient of the award) to do the following:

(1) Complete a DA Form 638 with the proposed citation and an award narrative for, in this case, the Bronze Star Medal.

(2) Narratives for valor or heroism should read as an executive summary of the valorous action. They must be factual, concise, corroborated by supporting documentation; in addition they should include a description of the terrain, weather, enemy conditions, actions of comrades in the vicinity, the degree to which the actions were voluntary, and the degree to which the actions exceeded what was normally expected of an individual in the same circumstance.

(3) Valor or heroism recommendations must also include eyewitness statements (if available, use DA Forms 7791 (Eyewitness Statement (for Valor/Heroism)), or, alternatively, notarized sworn affidavits). The eyewitness statements must be firsthand accounts of the observed actions and, to the best of the witness's ability, they should state the witness's position in relation to the recommended Soldier, the witness's duties, the mission of the witness's unit, and the date-time-location of the valorous actions.

(4) The narrative should additionally contain extracts from official records, sketches, maps, diagrams, photographs, all of which support the narrative summary.

(5) After completing the award recommendation and accumulating the supporting documentation, the award recommender must then contact and obtain

recommendations from the wartime chain of command that was in effect when the recommended former Soldier performed the heroic actions.

(6) If all efforts to locate those former commanders are unsuccessful, the recommender must detail the steps taken and state the final results those steps. At minimum, an endorsement by at least one living member of the chain of command (not the recommender) is required to enter the recommendation into military channels and to corroborate the validity of the documents provided.

(7) Upon completion of the above-cited steps, the award recommender forwards the completed awards packet to the member of Congress, who, in turn, transmits the packet to the U.S. Army Human Resources Command for review by the Army Decorations Board (ADB). The ADB will not consider the recommendation unless it complies with the criteria cited above; additionally, the ADB can disapprove or downgrade award recommendations.

2. AR 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

c. Paragraph 2-11 (ABCMR) Hearings. 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//