

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 November 2024

DOCKET NUMBER: AR20240002897

APPLICANT REQUESTS: reconsideration of his prior request for award of the Combat Infantryman Badge and/or Combat Action Badge.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- U.S. Army Human Resources Command (HRC) Denial Letter, 25 July 2022
- Chief of Staff, Army Enterprise Marketing Recommendation, 2 September 2022
- ABCMR Letter, 21 June 2023
- Witness Statements (x5)
- Orders 029-018, 29 January 2003 with Roster

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20080016957 on 3 February 2009.

2. The applicant states his service met the criteria for a Combat Action Badge and/or the Combat Infantryman Badge, but he did not receive the award. He deployed to Iraq with 4th Infantryman Division from April 2003 through April 2004. He believes he is entitled to the Combat Action Badge for being personally present and under hostile fire on numerous occasions, as outlined in his listed events. The Combat Action Badge was not established until 2 May 2005 and was not distributed for award until 29 June 2005, which is why he did not receive the award in theater. He has lost touch with most of the Soldier after 16 years but managed to get in touch with a few that provided witness statements, all of which received the Combat Action Badge. The applicant listed over 20 dates wherein his convoy or forward operating base, Camp Cobra, was hit with enemy fire or exposed to enemy fire to include mortar attacks, rocket propelled grenades, small firefights from insurgents. He continued to serve following active duty in the Indiana Army National Guard (INARNG).

3. The applicant provides:

a. A denial letter from HRC dated 25 July 2022 notified the applicant the documentation submitted in support of his request did not provide sufficient justification to warrant retroactive approval for the event. Based on the information provided, HRC confirmed the applicant served in an infantry unit at the time of the incident in question; therefore, he was not eligible to receive the Combat Action Badge. In accordance with Army Regulation 600-8-22 (Military Awards), paragraph 8-6f (1), in order to receive the Combat Infantryman Badge, a Soldier must be personally present and under fire while serving in an assigned infantry or Special Forces primary duty, in a unit engaged in active ground combat to close with and destroy the enemy with direct fires. The provided narrative and eyewitness statements did not clearly indicate the applicant met all above criteria on 14 November 2003.

b. A memorandum from the Chief of Staff, Army Enterprise Marketing, dated 2 September 2022, recommended retroactive award of the Combat Action Badge or the Combat Infantryman Badge for the applicant, among other Soldiers. He was personally present during the applicant's multiple combat actions. One specific incident included the applicant in direct combat at an ambush of one of his platoons conducting combat security patrols near the town of Jalula, Iraq on 20 December 2003. During that combat operation there was one enemy killed in action and three wounded in action.

c. A letter from the ABCMR dated 21 June 2023, notified the applicant the ABCMR was unable to process the application because it was not signed by the applicant nor did the application include documentation authorizing another individual to act on his behalf.

d. Five witness statements attested the applicant being involved in direct and indirect fire with enemy combatants during Operation Iraqi Freedom. Three statements addressed events on 14 November 2003 where the applicant was serving on guard post and received mortar attacks within 100 meters or less of his position. Another incident in October 2003 where the witness stated indirect mortar fire landed close enough to have a couple Soldiers acquire minor injuries. The last witness noted in May 2003, the applicant was driving through the streets of downtown Baghdad when the vehicle came under enemy attack by small arms fire.

- Sergeant (SGT) ED, 14 October 2023
- Sergeant First Class (SFC) RBC, Retired, 24 July 2021
- SGT JH, 11 June 2022
- SFC SR, Retired, undated
- SFC LSH, Retired, undated

e. Orders 029-018 dated 29 January 2003 directed Divarty, Fort Hood, TX to proceed on temporary change of station from Ft. Hood to Central Command in support of Operation Iraqi Freedom. The applicant was listed on the personnel roster attached to the orders.

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

a. He enlisted in the Regular Army on 25 July 2002.

b. A DA Form 638 (Recommendation for Award) shows the applicant received an Army Commendation Medal and among the achievements, noted the following:

- participated in numerous combat missions, patrols, raids, ambushes and check point operations while serving in Iraq
- participated in several raids in Baghdad, Iraq to include a 3 hour mission done in MOPP 4 in 110 degree weather to search a suspected chemical weapon factory
- has been involved in combat action against the enemy and conducted himself every time with the highest degree of professional competence

c. He was honorably discharged from active duty on 12 June 2005. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 2 years, 10 months, and 18 days of active service. Block 11 (Primary Specialty) shows the applicant held military occupational specialty (MOS) 13F (Fire Support Specialist). Block 18 (Remarks) shows he served in Iraq from 5 April 2003 through 15 April 2004. It also shows he was awarded or authorized:

- Army Lapel Button
- Global War on Terrorism Service Medal
- Global War on Terrorism Expeditionary Medal
- National Defense Service Medal
- Army Service Ribbon

5. On 3 February 2009, the ABCMR rendered a decision in Docket Number AR20080016957. The Board noted by regulation, in order to be eligible to receive the Combat Infantryman Badge, a member must hold and serve in an infantry MOS. The evidence of record confirms the applicant held and served in an artillery MOS throughout the period he served on active duty. As a result, he was and remains ineligible to receive this award. The Board further noted the DA Form 638 and Army Commendation Medal Certificate provided by the applicant are not sufficient to support adding this award to his record and separation document. These documents are not complete and provide no evidence that the award was approved by the proper award

approval authority. As a result, there was insufficient evidentiary basis to support adding this award to his record and separation document at the time.

6. By regulation (AR 600-8-22):

a. There are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat. Specific requirements state, in effect, that an Army enlisted Soldier must have an infantry or special forces specialty and must have satisfactorily performed duty while assigned or attached as a member of an infantry, ranger, or special forces unit of brigade, regimental, or smaller size during any period such unit was engaged in active ground combat.

b. 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, it is not intended to award the Combat Action Badge to all Soldiers who serve in a combat zone or imminent danger area. The Soldier must be performing assigned duties in an area where hostile fire pay or imminent danger pay is authorized. The 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.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The evidence of record shows the applicant deployed to Iraq from 5 April 2003 to 15 April 2004. The Board reviewed the recommendation for the Army Commendation Medal and concluded it supported award of the Combat Action Badge based on participation in combat missions and being involved in combat action with the enemy.

2. The evidence of record shows the applicant held military occupational specialty (MOS) 13F. The Board determined he does not meet the criteria for award of the Combat Infantryman Badge since he did not hold an infantry MOS.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 12 June 2005 to show award of the Combat Action Badge
2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to award of the Combat Infantryman Badge.

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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. Army Regulation 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 begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

2. Army Regulation 600-8-22 (Military Awards), in effect at the time, prescribes Army policy, criteria, and administrative instructions concerning individual military awards.

a. There are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat. Specific requirements state, in effect, that an Army enlisted Soldier must have an infantry or special forces specialty and must have satisfactorily performed duty while assigned or attached as a member of an infantry, ranger, or special forces unit of brigade, regimental, or smaller size during any period such unit was engaged in active ground combat. Eligibility for special forces personnel (less the special forces medical sergeant) accrues from 20 December 1989. Retroactive awards for special forces personnel are not authorized. A recipient must be personally present and under hostile fire while serving in an assigned infantry or special forces primary duty, in a unit actively engaged in ground combat with the enemy.

b. 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, it is not intended to award the Combat Action Badge to all Soldiers who serve in a combat zone or imminent danger area. The Soldier must be performing assigned duties in an area where hostile fire pay or imminent danger pay is authorized. The 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. The Soldier must [not] be assigned or attached to a unit that would qualify the Soldier for the Combat Infantryman Badge or the Combat Medical Badge. Award of the Combat Action Badge is authorized from 18 September 2001 to a date to be determined. Award for qualifying service in any

previous conflict is not authorized. Retroactive awards of the Combat Action Badge are not authorized prior to 18 September 2001.

//NOTHING FOLLOWS//