

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 October 2024

DOCKET NUMBER: AR20240002944

APPLICANT REQUESTS: award of the Air Medal.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Report of Separation from Active Duty)
- DA Form 759 (Individual Flight Record and Flight Certificate – Army)

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 flight records show he completed 418 combat hours of pilot time during Vietnam, but he never received the Air Medal. He feels he deserves recognition for having been a helicopter pilot in Vietnam, while he was assigned to the 1st Cavalry Division. In support of his request, he provides a DA Form 759, which covers the periods November to December 1972 and January to June 1973; the form shows the applicant performed 418 hours of pilot combat time, flying a single engine rotary-wing aircraft.
3. A review of the applicant's service record shows:
 - a. On 25 September 1968, the applicant enlisted into the Regular Army;(his DD Form 4 (Enlistment Contract – Armed Forces of the United States) is unavailable for review). In or around December 1968, the applicant entered Warrant Officer Candidate School at the U.S. Army Aviation School, Fort Rucker, AL. On or about 7 September 1969, the Army awarded him military occupational specialty (MOS) 100B (Pilot, UH-1 Helicopter); at the time, he held the rank/grade of warrant officer one (WO1).
 - b. On 7 September 1969, the Army honorably discharged the applicant; (his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) is

missing from his service record). On or about 8 September 1969, the applicant executed his oath of office as a U.S. Army Reserve (USAR) WO1; (his DA Form 71 (Oath of Office – Military Personnel) is not available).

c. Effective 17 October 1969, the U.S. Army Flight Training Center at Fort Stewart, GA awarded the applicant MOS 100E (Rotary Wing Pilot, AH-1G Attack Helicopter). On 13 February 1970, the applicant graduated from Aircraft Maintenance Officer Course at Fort Eustis, VA, and the Army awarded him MOS 671C (Aircraft Repair Technician, Rotary Wing Rated). Orders subsequently transferred the applicant to Vietnam, and he arrived in country on 18 March 1970; orders further assigned him to the 2nd Battalion (Airmobile) 20th Artillery Regiment, 1st Cavalry Division (Airmobile), where he performed duties as a helicopter repair technician.

d. On 10 June 1970, the Department of the Army Office of Personnel Operations announced that the applicant had tentatively been selected for appointment as a USAR second lieutenant (2LT) in the infantry.

e. On or about 4 July 1970, the applicant's rating chain issued him a U.S. Army Officer Efficiency Report (DA Form 67-6) for rating period 13 February 1970 through 4 July 1970; his duty position was helicopter repair technician. Both the applicant's rater and indorser lauded the applicant's expertise and attributed the success of a recent campaign to the applicant's "tireless supervision," noting that the aircraft maintained by the applicant flew when others within the battalion were inoperable.

f. On 20 August 1970, a U.S. Army, Vietnam (USARV) memorandum announced the applicant's appointment as an infantry 2LT in the USAR. On 21 August 1970, the applicant executed his oath of office. The applicant remained assigned to the same battalion and performed duties as a helicopter repair technician, maintenance test pilot, and assistant maintenance officer.

g. On 9 January 1971, Headquarters, 1st Cavalry Division (Airmobile) General Orders awarded the applicant the Bronze Star Medal for meritorious service, during the period March 1970 to March 1971. On 16 March 1971, the applicant completed his tour in Vietnam, and orders reassigned him to Fort Bliss, TX.

h. On 3 June 1978, the Army honorably transferred him to the USAR. His DD Form 214 (Report of Separation from Active Duty) shows he completed 7 years, 9 months, and 13 days of active duty service. Item 26 (Decorations, Medals, Badges, Commendations and Campaign Ribbons Awarded or Authorized) lists the following:

- National Defense Service Medal
- Army Aviator Badge
- Vietnam Service Medal

- Bronze Star Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Army Commendation Medal
- Meritorious Service Medal

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that 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. Although the evidence of record is void of orders confirming award of the Air Medal, his DA Form 759-1, Individual Flight Record and Flight Certificate-Army is available for review and was sufficient evidence for the Board majority to conclude his authorization for award of the Air Medal. The Board minority was not convinced by a preponderance of the evidence, in the absence of awards, for entitlement to award of the Air Medal.

2. Prior to closing the discussion, the Board reviewed and concurred with the administrative note below for additional awards.

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 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 3 June 1978 by adding award of the Air Medal.

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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:

While in Vietnam, the applicant served in the 2nd Battalion 20th Artillery Regiment, from March 1970 to March 1971; Department of the Army General Orders Number 43, dated 1972, awarded this unit the Valorous Unit Award, for the period 1 May to 29 June 1970. Amend the applicant's DD Form 214 by deleting the Vietnam Service Medal and adding the following awards:

- Vietnam Service Medal with three bronze service stars
- Korea Defense Service Medal
- Valorous Unit Award

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 (AR) 600-8-22 (Military Awards), currently in effect, prescribes policies and procedures for military awards. In paragraph 3-18 (Air Medal), the regulation states the Air Medal may be awarded to any person who, while serving in any capacity in or with the Armed Forces of the United States, has distinguished themselves by meritorious achievement while participating in aerial flight.

a. Awards may be made to recognize single acts of valor, merit, or heroism or for meritorious service as described below:

(1) Awards may be made for acts of heroism in connection with military operations against an armed enemy or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party, which are of a lesser degree than required for award of the Distinguished Flying Cross.

(2) Awards may be made for a single act of meritorious achievement, involving superior airmanship, which are of a lesser degree than required for award of the Distinguished Flying Cross, but nevertheless were accomplished with distinction beyond that normally expected.

(3) Awards for meritorious service may be made for sustained distinction in the performance of duties involving regular and frequent participation in aerial flight for a period of at least 6 consecutive months (a month is considered 30 calendar days). In this regard, accumulation of a specified number of hours and missions will not serve as the basis for award of the Air Medal.

b. Award of the Air Medal is primarily intended to recognize those personnel who are on current crewmember or non-crewmember flying status which requires them to participate in aerial flight on a regular and frequent basis in the performance of their primary duties. However, it may also be awarded to certain other individuals whose combat duties require regular and frequent flying in other than a passenger status or individuals who perform a particularly noteworthy act while performing the function of a crewmember, but who are not on flying status as prescribed in AR 600 106 (Flying Status for Non-Rated Army Aviation Personnel).

(1) These individuals must make a discernible contribution to the operational land combat mission or to the mission of the aircraft in flight. Examples of personnel whose combat duties require them to fly include those in the attack elements of units involved in air-land assaults against an armed enemy and those directly involved in airborne command and control of combat operations. Involvement in such activities, normally at the brigade or group level and below, serves only to establish eligibility for award of the Air Medal.

(2) The degree of heroism, meritorious achievement, or exemplary service determines who should receive the award. Awards will not be made to individuals who use air transportation solely for the purpose of moving from point to point in a combat zone.

c. Numerals, starting with "2," will be used to denote second and subsequent awards of the Air Medal.

3. U.S. Army, Vietnam (USARV) Regulation 672-1 (Decorations and Awards), in effect at the time, provided specific guidelines for award of the Air Medal in Appendix IV (Award of the Air Medal).

a. The regulation also established three categories for aerial missions:

- Category I – An assault role in which a hostile force was engaged and was characterized by delivery of ordnance against a hostile force, or delivery of supplies into the immediate combat operations area
- Category II – A mission in support of a friendly force immediately before, during, or immediately following a combat operation; examples included air land or parachute resupply not connected to a combat assault and troop lift in support of combat operations not connected to a combat assault
- Category III – A mission supporting friendly forces that was not connected to an immediate combat operation, but which required the aircraft to operate at altitudes that made the aircraft vulnerable to small arms fire or during adverse weather or terrain conditions

b. To receive the Air Medal based on participation in sustained operations, the prospective awardee had to have completed a specific number of missions and hours of flight time; the regulation provided examples as to how flights recorded on DA Forms 759 (Individual Flight Record and Flight Certificate – Army (Part I)) and 759-1 (Individual Flight Record and Flight Certificate – Army (Part II)) could be used to determine the types and numbers of missions, as well as the total flight hours by category:

- 25 Category I missions with a minimum of 25 hours of flight time
- 50 Category II missions with at least 50 hours of flight time

- 100 Category III missions with not less than 100 hours of flight time
4. AR 672-5-1 (Awards), in effect at the time, stated, in chapter 1 (Medals), section III (Good Conduct Medal), that the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; however, for first award only, Soldiers could be awarded the Army Good Conduct Medal, upon termination of their service on or after 27 June 1950, when they had served less than 3 years but more than 1 year. Additionally, the Soldiers must have had all "Excellent" conduct and efficiency ratings and no court-martial convictions.
5. 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.

//NOTHING FOLLOWS//