

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 January 2025

DOCKET NUMBER: AR20240005588

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show:

- in item 5a (Grade, Rate or Rank) his rank as Sergeant (SGT) instead of Specialist Four (SP4)
- award of the Army Commendation Medal with oak leaf cluster
- award of the Air Medal with cluster

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

- DD Form 149 (Application for Correction of Military Record)
- Standard Form 180 (Request Pertaining to Military Records)

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 Board will not consider the following portion of the applicant's request, as this item will be addressed through an administrative correction: award of the Army Commendation Medal (First Oak Leaf Cluster) General Orders Number 12360, Headquarters, Americal Division, 1 December 1969.
3. The applicant was inducted into the Army of the United States on 12 June 1968. He served in military occupational specialty 11B (Light Weapons Infantryman Crewman).
4. His DA Form 20 (Enlisted Qualification Record) shows he served in the Republic of Vietnam with/from:
 - Company A, 5th Battalion, 46th Infantry Regiment, 198th Infantry Brigade, 1 December 1968 to 29 November 1969

- Headquarters and Headquarters Company, 5th Battalion, 46th Infantry Regiment, 198th Infantry Brigade, 30 November 1969 to 10 January 1970

5. He was honorably released from active duty as an overseas returnee on 13 January 1970. The DD Form 214 shows in item 5a SP4 and in item 5b (Pay Grade) E-4. The form further shows in item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):

- National Defense Service Medal
- Army Commendation Medal
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- Marksman Marksmanship Qualification Badge with Rifle Bars (M-16 & M-60)
- 2 overseas service bars
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Combat Infantryman Badge

6. His Official Military Personnel File contains the corresponding promotion/appointment orders and item 33 (Appointments and Reductions) of his DA Form 20 shows the following:

- | | | |
|-------------------------|--------------------|------------------|
| • PVT/E-1 Permanent (P) | Date of Rank (DOR) | 12 June 1968 |
| • PV2/E-2 (P) | DOR | 12 June 1968 |
| • PFC/E-3 (P) | DOR | 13 November 1968 |
| • SP4/E-4 Temporary (T) | DOR | 7 August 1969 |
| • SGT/E-5 (T) | DOR | 5 November 1969 |

7. Item 38 (Record of Assignments) of his DA Form 20 shows he received all "excellent" conduct and efficiency ratings throughout his entire period of active military service.

8. There is no evidence in the available records that shows he was awarded the Army Good Conduct Medal; neither 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.

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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board found insufficient evidence to support award of the Air Medal with cluster based on the lack o substantiating documentation.
2. The Board noted, in accordance with regulatory criteria, detailed records of flight operations, including verified mission counts and flight hours, are required to support eligibility for the Air Medal. The applicant's file does not contain such documentation, nor does it meet the regulatory standards which require proof that the individual met the required number of missions and hours, maintained professional conduct, and did not contribute to any aircraft incidents. As this Board is not an investigative body, the burden of proof rests solely with the applicant, and in this case, that burden has not been met.
3. However, the Board determined there is sufficient evidence to award the Army Good Conduct Medal (1st Award) not annotated on the applicant's DD Form 214. The applicant's DA Form 20 reflects consistent "excellent" conduct and efficiency ratings throughout his entire period of active service. The Board found no evidence of any disciplinary actions, including courts-martial or nonjudicial punishment, nor is there any indication of a commander's disqualification for the award. As such, the Board granted partial relief to award the Army Good Conduct Medal, but deny award of the Air Medal with cluster
4. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction be completed to more accurately depict the military service of the applicant.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding the Army Good Conduct Medal (1st Award) for exemplary service from 12 June 1968 to 13 January 1970 and adding the medal to his DD Form 214.

2. The Board further determined 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 Air Medal with cluster.

X //SIGNED//

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.

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 13 January 1970. As a result, amend his DD Form 214 by adding

- add to item 5a, "SGT (T)" and 5b "E-5"
- add to item 24, Army Commendation Medal (First Oak Leaf Cluster), Vietnam Service Medal with 4 bronze service stars, and Republic of Vietnam Gallantry Cross with Palm Unit Citation
- add to item 30, "Item 5 – PFC (P) (E-3) aptd 13 Nov 68"

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 600-200 (Enlisted Personnel Management System), in effect at the time, prescribed policies, responsibilities, and procedures pertaining to career management of Army enlisted personnel. Chapter 7 contained Army-wide promotion policy and procedures. It stated, in pertinent part, that the promotion of enlisted personnel to grade E-5 through E-9, appointments, grade reductions, and grade restoration were announced in orders.

3. Army Regulation 635-5 (Separation Documents), then in effect, established the standardized policy for preparing and distributing the DD Form 214. It states, for enlisted personnel, to enter the date of rank for the grade shown in item 5a.

- If date of rank is different from date of appointment, enter date of appointment in item 30 (Remarks) as shown in paragraph 62 (Item 30).
- If grade at time of separation is not permanent, the permanent grade, date of appointment, and date of rank, if different from date of appointment, will be entered in item 30 (Remarks) as shown in paragraph 62.

4. Army Regulation 672-5-1 (Decorations, Awards and Honors - Military Awards), in effect at the time, states the Air Medal is awarded to any person who, while serving in any capacity in or with the Army of the United States, shall have distinguished himself by meritorious achievement while participating in aerial flight. Awards may be made to

recognize single acts of merit or sustained operational activities against an armed enemy, or for heroic acts in, aerial flight. The required achievement, while of lesser degree than that required for the award of the Distinguished Flying Cross, must nevertheless have been accomplished with distinction beyond that normally expected. A maximum of two Air Medal certificates for meritorious achievement will be issued to eligible recipients during a tour of duty in Vietnam, or assignment to same organization having award authority. The first Air Medal certificate will be issued with the initial award. The second certificate will cover subsequent awards of the Air Medal during the member's tour or assignment and will be issued upon individual's termination of tour, death, or reassignment to another organization. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

5. Title 10, U.S. Code, section 1130, provides the legal authority for consideration of proposals for decorations not previously submitted in a timely fashion. Upon the request of a Member of Congress, the Secretary concerned shall review a proposal for the award of or upgrading of a decoration. Based upon such review, the Secretary shall determine the merits of approving the award.

6. The request, with a DA Form 638 (Recommendation for Award), must be submitted through a Member of Congress to the Secretary of the Army at the following agency: Commander, U.S. Army Human Resources Command, ATTN: AHRC-PDP-A, 1600 Spearhead Division Avenue, Fort Knox, KY 40122. The applicant's unit must be clearly identified along with the period of assignment and the award being recommended. A narrative of the actions or period for which recognition is being requested must accompany the DA Form 638. Requests for consideration of awards should be supported by sworn affidavits, eyewitness statements, certificates, and related documents. Corroborating evidence is best provided by commanders, leaders and fellow Soldiers who had personal knowledge of the circumstances and events relative to the request. The burden and costs for researching and assembling documentation to support approval of requested awards and decorations rest with the requestor.

7. Army Regulation 600-8-22 (Military Awards), paragraph 2-13, contains the regulatory guidance on the Vietnam Service Medal and states that a bronze service star is authorized with this award for each Republic of Vietnam campaign a member is credited with participating in. Appendix B shows that during his service in the Republic of Vietnam, participation credit was awarded for the following four campaigns:

- Vietnam Counteroffensive, Phase VI
- TET 69 Counteroffensive
- Vietnam Summer-Fall 1969

- Vietnam Winter-Spring 1970

8. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in the Republic of Vietnam. During the period in which the applicant was assigned to Company A, 5th Battalion, 46th Infantry Regiment, 198th Infantry Brigade, his unit was cited for award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation, for the period 24 August to 31 December 1969, by DAGO 11, dated 1973, amended DAGO 42, 1972.

9. Army Regulation 672-5-1 (Awards), in effect at the time, stated 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; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

10. 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 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//