

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 April 2025

DOCKET NUMBER: AR20240006834

APPLICANT REQUESTS: through counsel,

- reconsideration of his previous request for award of the Army Commendation Medal (ARCOM)
- a personal appearance before the Board via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Counsel Legal Brief (9 pages)
- Exhibit 1 – Personnel Qualification Record
- Exhibit 2 – DD Form 214 (Certificate of Release or Discharge from Active Duty), 7 June 1991
- Exhibit 3 – Leave and Earnings Statements (LES), which shows the applicant was present for the drill weekends in which he was counseled for being absent.
- Exhibit 4 – Honorable Discharge Certificate, 30 March 1993
- Exhibit 5 – U.S. Army Human Resources Command (HRC), Letter, 6 February 2019
- Exhibit 6 – Freedom of Information Act (FOIA) Response, 21 February 2024, which states the Privacy Act of 1974 prohibits the release of personally identifiable information from a Privacy Act system of records without the subject's consent, subpoena and/or court order.
- Exhibit 7 – Army Board for Correction of Military Records (ABCMR) Application, 19 May 2020
- Exhibit 8 – ABCMR Denial, 24 March 2022
- Exhibit 9 – Applicant Statement, 3 May 2022
- Exhibit 10 – National Personnel Records Center Documents/Official Military Personnel Files (160 pages), in support of the applicant's application.

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the ABCMR in Docket Number AR20200008322 on 1 October 2021.

2. The applicant's counsel states in his 9-page legal brief:

a. A material error and injustice exist based on the incorrect decision not to award the applicant an ARCOM at the end of his service with the United States Army. In the last two years of his military service, he was administratively reassigned to four separate units within a 7-month period. He deployed to Saudi Arabia from January 1991 to June 1991, with the 402nd Military Police (MP) Company at Fort Dix, NJ. Three days after his return, he was transferred to the 306th MP Company in Chester, VT. A few months after arriving at this assignment, he was reassigned to the 812th MP Company in Orangeburg, NY. Then, less than three months after that assignment, he was transferred to the 1302nd Port Security Detachment in Orangeburg, NY. As a result of these rapid reassignments within such a short period of time, his command teams never completed a single performance report for him, and in addition, they never submitted him for any decorations, including the ARCOM that is customarily completed prior to a servicemember's transfer to another unit.

b. The applicant has already pursued all avenues of relief from the Army Awards and Decorations Branch, pursuant to Army Regulation (AR) 600-8-22 (Military Awards), and his Congressional representative pursuant to 10 USC 1130. Both avenues of relief have required either specific concurrence from his previous chain of command and/or a complete accounting of his accomplishments in his last assignment. However, as demonstrated in this application, he can neither contact his chain of command nor provide specific accounting of his accomplishments during his last assignment, which was over 30 years ago, because of the inexcusable deficiencies in his personnel record. Specially, due to intentional omission or negligent oversight, he was never given a performance evaluation or report for any of his last three assignments. A performance report during this time would have served two purposes – illustrating the applicant's accomplishments during these assignments and identifying his chain of command.

c. The applicant completed his reserve duties in such a manner that he is deserving of an ARCOM, which was customarily given to all servicemembers upon their expiration term of service (ETS). In denying the applicant's previous application, the ABCMR noted that he did not serve satisfactorily because his personnel records indicate he received counseling for several unexcused absences. As a result, the applicant was apparently declared an unsatisfactory participant and was transferred to the Individual Ready Reserve (IRR). The applicant rebuts this assertion entirely. The applicant

performed his duty honorably, without incident, and as a result, he is deserving of an ARCOM

d. Counsel's complete brief and supporting documents are available for the Board to review.

3. The applicant states, in effect:

a. He was administratively transferred to the 1302nd Port Security Detachment (MP) from the 812th MP Company in January 1992. He did not learn of this transfer until he showed up to drill with the 812th in January 1992. Since he was no longer attached to the unit, he was not able to drill with them and he recalls being told that the 1302nd drilled the weekend prior and he would then report there to drill with them in February 1992. He showed up in February 1992 and drilled with them. His LESs prove that he drilled that month and the same is true for March 1992. He drilled with the unit for his final drill prior to being placed in the IRR. From what he recalls, he showed up as he was told to out process the unit in May 1992 for half a day to turn in his gear. After turning in his gear, he was told that he would not have to return to the unit, and he would be placed into the IRR, and he would eventually hear from them. His LES backs this up. He could not have been paid unless he was there and physically present.

b. During that drill, he was informed that the 1302nd's two-week summer camp would be during April 1992, which conflicted with his civilian job. Since he was new to this unit, unaware of this, and only made aware at that time, he requested to meet with the commander to request to do his two weeks at an alternate time during the year with another unit. The commander did not want to grant his request and did not feel his request was warranted. Since he was not seeing his plight and because of the time left on his service obligation, he did have the time and right at that point to request to go IRR.

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

a. He enlisted in the U.S. Army Reserve (USAR) on 12 March 1985.

b. He entered active duty for training on 8 April 1985 and completed training for award of military occupational specialty 95B (Military Policeman).

c. His DA Form 2-1 shows in:

- Item 5 (Overseas Service): service in Saudi Arabia from 30 January 1991 to 19 May 1991
- Item 9 (Awards, Decorations, and Campaigns): Does not show the award of the ARCOM.

d. On 7 June 1991, he was honorably released from active duty. His DD Form 214 shows he completed 5 months and 5 days of net active service this period. This form also shows in:

- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
 - Army Service Ribbon
 - National Defense Service Ribbon
 - Southwest Asia Service Medal with three bronze service stars
 - Army Reserve Component Achievement Medal (1st Oak Leaf Cluster)
 - Marksman Marksmanship Qualification Badge with pistol bar (.45 caliber)
 - Sharpshooter Marksmanship Qualification Badge with rifle bar (M-16)
 - Expert Marksmanship Qualification Badge with grenade bar
 - Kuwait Liberation Medal – Saudi Arabia
 - Kuwait Liberation Medal – Kuwait
 - Armed Forces Reserve Medal with “M” Device
- Item 18 (Remarks): Ordered to active duty in support of Operation Desert Shield/Storm; service in Southwest Asia 6 January 1991 – 6 May 1991; served in a designated imminent danger pay area

e. Orders Number 165-33, issued by Headquarters, 77th United States Army Reserve Command, Fort Totten, Flushing, NY on 25 September 1992, shows he was relieved from the 1302nd Port Security Detachment, Orangeburg, NY, effective 25 September 1992, by reason of unsatisfactory participation. He was assigned to the USAR Control Group (Reinforcement), St. Louis, MO.

f. Orders D-03-325994, issued by the U.S. Army Reserve Personnel Center, St. Louis, MO on 30 March 1993, shows he was honorably discharged from the Ready Reserve on 30 March 1993.

5. The applicant's service record does not contain, and the applicant does not provide orders awarding him the ARCOM.

6. On 6 February 2019, the Chief, HRC, Awards and Decorations Branch responded to the applicant's Member of Congress inquiry regarding his request to obtain an ARCOM. The letter states, in pertinent part:

a. HRC would like to take favorable action; however, they were unable to forward the recommendation for the ARCOM to the Army Decorations Board at that time. HRC acknowledged receipt of the three partially executed DA Forms 638 (Recommendation for Award) recommending the applicant for award of the ARCOM for retirement;

nevertheless, they must comply with AR 600-8-22 with respect to proper completion and formatting of retroactive award recommendations.

b. The Chief noted that there was no record of the applicant retiring from the Army Reserves, but he may be considered for a retroactive award for ETS, only for the period he was assigned to his last unit of assignment. For the constituent's convenience, HRC provided a resource handout citing the requirements for retroactive award consideration, as well as blank and sample copies of the latest version of the DA Form 638.

7. The ABCMR considered the applicant's request in ABCMR Docket Number AR20200008322 on 1 October 2021.

a. After reviewing the application and all supporting documents, the Board found relief was not warranted. The applicant's contentions were carefully considered. Regulatory guidance provides there is no automatic entitlement to an award upon departure either from an assignment or from the service. While the available evidence is insufficient for awarding the applicant an ARCOM, this in no way affects his right to pursue his claim for the ARCOM by submitting a request through his Member of Congress under the provisions of 10 USC 1130. The applicant is advised to provide the Member with a DA Form 638 showing his achievements for the requested period of service.

b. The Board found the evidence presented did not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of the case were insufficient as a basis for correction of the records of the applicant.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation showing the applicant successfully completed a 7-month deployment without prior recognition for his service, which is customary for successful periods of military service and the level of award sought by the applicant, the Board found there was an injustice present which would warrant awarding the Army Commendation Medal to the applicant for his period of service from January 1991 to June 1991, while serving in Saudi Arabia.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XXX	:XXX	:XXX	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 Army records of the individual concerned be corrected by amending the applicant's DD Form 214 by awarding and adding the Army Commendation Medal.

//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 600-8-22 (Military Awards) prescribes Department of the Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Army Commendation Medal is awarded to any service member of the Armed Forces of the United States who, while serving in any capacity with the Army after 6 December 1941, distinguishes himself or herself by heroism, meritorious achievement, or meritorious service. Award may be made to a member of the armed forces of a friendly foreign nation who, after 1 June 1962, distinguishes himself or herself by an act of heroism, extraordinary achievement, or meritorious service, which has been of mutual benefit to a friendly nation and the United States. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

b. Army Regulation 600-8-22, states in paragraph 1-14, except for award recommendations submitted in accordance with the provisions of Section 1130, Title 10, United States Code (10 USC 1130), which is outlined below, each recommendation for an award of a military decoration must be entered administratively into military channels within 2 years of the act, achievement, or service to be honored. An award recommendation will be considered to have been submitted into military channels when it has been signed by the initiating officer and endorsed by a higher official in the chain of command. However, pursuant to 10 USC 1130, a Member of Congress can request consideration of a proposal for the award or presentation of decoration either for an individual or unit that is not otherwise authorized to be presented or awarded due to limitations established by law or policy. Based upon such review, the Secretary of the Army will make a determination as to the merit of approving the award or presentation of the decoration and other determinations necessary to comply with congressional reporting requirements under 10 USC 1130.

c. Title 10 USC 1130 also requires that a request of this nature be referred to the Service Secretary from a Member of Congress. Therefore, an applicant must submit his/her request through a Member of Congress who will send it to the U.S. Army Human Resources Command, ATTN: AHRC-PDP-A, 1600 Spearhead Division Avenue, Fort Knox, KY 40122. The burden and costs for researching and assembling documentation to support approval of requested awards and decorations rest with the requestor.

2. 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.

a. 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.

b. 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.

//NOTHING FOLLOWS//