

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 January 2025

DOCKET NUMBER: AR20240007198

APPLICANT REQUESTS:

- correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 4 November 1968 to show award of the Army Good Conduct Medal (AGCM)
- 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)
- DD Form 214, 4 November 1968

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 he served in Vietnam for 1 year, 1 month, and 20 days. His commanding officer said, "I think you and I need a visit to the barber." The applicant went to the barber that day and the power was down at the base in Cam Ranh Bay, so the barber was unable to cut his hair. The next day, he was pulled up in the ranks. His commanding officer said he disobeyed an order, and he was given an Article 15. The applicant believed it was not a direct order. For the three years he was in the Army, he never had any incidents or misconduct. The Article 15 prevented him from receiving his AGCM award.
3. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 5 November 1965.
 - b. His DA Form 20 (Enlisted Qualification Record) shows in:

- Item 33 (Appointments and Reductions): no reductions
- Item 38 (Record of Assignments): he received “excellent” conduct and efficiency ratings.
- Item 41 (Awards and Decorations): does not list the AGCM. It lists the National Defense Service Medal (NDSM), Vietnam Service Medal (VSM), the Republic of Vietnam Campaign Medal (VCM) with device 1960, and two overseas service bars.
- Item 44 (Time Lost Under Section 972 (Title 10, U.S. Code and Subsequent to Normal Date Expiration of Term of Service): no entries.

c. On 23 May 1967, he accepted nonjudicial punishment under Article 15, Uniform Code of Military Justice, for on or about 12 May 1967, failing to obey a lawful order by his first sergeant to get a haircut prior to the Saturday morning inspection.

d. He was honorably released from active duty and transferred to the U.S. Army Reserve Control Group on 4 November 1968. His DD Form 214 shows he completed 3 years of active service during this period. Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) shows he was awarded the NDSM, VSM, VCM with device 1960, and the Marksman Marksmanship Qualification Badge (rifle).

4. The applicant’s records do not reflect orders awarding him the AGCM.

5. The applicant’s records indicate he was awarded or authorized additional awards that are not shown on his DD Form 214 and will be listed in the administrative notes.

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 applicant’s 3 years of service including an Article 15, the Board concluded there was insufficient evidence of an error or injustice warranting adding the Army Good Conduct Medal to 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:

1. 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.
2. Prior to closing the case, the Board did note the administrative notes below from the analyst of record and recommended those changes be completed to more accurately reflect the military service of the applicant.

//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.

ADMINISTRATIVE NOTE(S): Administratively correct the applicant's DD Form 214 for the period ending 4 November 1968 without action by the Board by adding the following awards to item 24.

- two bronze service stars with the Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Meritorious Unit Commendation
- two overseas service bars

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 672-5-1 (Decorations and Awards), in effect at the time, stated the AGCM was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 26 August 1940; for the 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.

3. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Army Good Conduct Medal (AGCM) is awarded to on a selective basis to each Soldier who distinguishes himself or herself from among his or her fellow Soldiers by exemplary conduct, efficiency, and fidelity throughout a specified period of continuous enlisted active Federal military service. There is no right or entitlement to the medal until the immediate commander has approved the award and the award has been announced in permanent orders.

(1) The periods of service of qualifying service are: (1) each 3 years completed on or after 27 August 1940; (2) for the first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; (3) 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; (4) for the first award only, upon termination of service on or after 27 June 1950 of less than 1 year when final separation was by reason of physical disability incurred in line of duty; or (5) for the first award only, for those individuals who died before completing 1 year of active Federal military service or if the death occurred in the line of duty.

(2) Throughout a qualifying period of service, the enlisted Soldier's character must have been above reproach and must meet all of the following criteria for award of

the Army Good Conduct Medal as indicated in the Soldier's record: willingly complied with the demands of the military environment, been loyal and obedient to his or her superiors, faithfully supported the goals of his or her organization and the Army, and conducted himself or herself in an exemplary manner as to distinguish him or her from fellow Soldiers.

b. The Vietnam Service Medal was awarded to all service members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for 1 or more days with an organization participating in or directly supporting military operations. One bronze service star is authorized with the Vietnam Service Medal for each campaign during which a member was assigned or attached to and present for duty with a unit during the period in which it participated in combat or was under orders in the combat zone and served at a normal post of duty. The applicant participated in two campaigns during his service in Vietnam.

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. The 40th Signal Battalion was cited for the Meritorious Unit Commendation by order of the Department of the Army Order (DAGO) Number 73, dated 1968, for the period 15 September 1966 to 31 July 1967

5. Department of the Army General Orders Number 8, dated 19 March 1974, awarded Headquarters, United States Military Assistance Command and its subordinate units, the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 8 February 1962 to 28 March 1973.

6. 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//