

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 January 2025

DOCKET NUMBER: AR20240007420

APPLICANT REQUESTS: in effect, correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show all awards and decorations he is entitled.

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

- DD Form 149 (Application for Correction of Military Record)
- Order of the Combat Spur Certificate
- Army Achievement Medal Certificate, Permanent Order Number 80-146
- Reverse, DA Form 638 (Recommendation for Award), Permanent Order Number 80-146
- Reverse, DA Form 638, Permanent Order Number 213-150, 1 August 2004
- Reverse, DA Form 638, Permanent Order Number 249-47, 6 September 2004
- Order 96-102, Detachment A, 15th Personnel Service Battalion, 6 April 2005
- Memorandum for Deployment, Company A, 1st Battalion, 5th Cavalry, 1st Cavalry Division, 5 May 2005
- Army Commendation Medal Certificate, Permanent Order Number 178-06
- Reverse, DA Form 638, Permanent Order Number 178-06, 27 June 2005
- Letter, Department of Veterans Affairs, 14 November 2022

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 enlisted in the Regular Army on 17 May 2001. He served in military occupational specialty 11B (Infantryman).
3. On 2 June 2005, he was honorably released from active duty upon the completion of his required active service in the rank/grade of sergeant (SGT)/E5. The DD Form 214 he was issued shows he completed 4 years and 16 days net active service during this

period with 1 year, 7 months, and 5 days foreign service. The form further shows he was awarded or authorized the:

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

4. There is no evidence in the available records that shows he was awarded the Army Good Conduct Medal (AGCM) nor 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.

5. There is no right or entitlement to the AGCM until the immediate commander approves the award and the award is announced in permanent orders, however, although there is no automatic entitlement to the AGCM, disqualification must be justified.

6. During the processing of this case, the Defense Finance and Accounting Service (DFAS) reviewed his Master Military Pay Account, which shows he performed foreign duty and received hostile fire pay/imminent danger pay for service in Kuwait from 12 January 2004 to 26 February 2005.

a. Note: DFAS only verifies receipt of hostile fire/imminent danger pay. DFAS does not verify inclusive dates of deployed service or deployment locations beyond the first qualifying country (e.g., Kuwait versus Iraq).

b. DFAS pay records are not considered "source documents," but may be considered as supporting documents leading to a preponderance of the evidence. A second source document is required.

7. The applicant provides a/an:

a. Order of the Combat Spur certificate authorizing him to wear a pair of Cavalry Spurs at all formal Cavalry Formations.

b. Permanent Orders Number 80-146, Headquarters, 3rd Battalion, 8th Cavalry Regiment, 1st Cavalry Division awarded him the Army Achievement Medal while deployed as a participant in Operation Enduring Freedom from 14 November 2001 to 4 April 2002.

c. DA Form 638, initiated on 26 July 2004, recommending award of the Army Commendation Medal in support of Operation Iraqi Freedom I and II from 8 January

2004 to 12 January 2005. Block 26 (Approval Authority) appears to have been altered to approved. Block 27b (Permanent Order Number) contains an order number; however, block 29 (Approved Award) is blank.

d. Reverse, DA Form 638, which appears to show the intermediate authority downgraded award to the Army Commendation Medal with "V" Device. Permanent Order Number 249-47 approved award of the Army Commendation Medal with "V" Device on 6 September 2004.

e. Order 96-102, Detachment A, 15th Personnel Services Battalion, 6 April 2005, promoted him to the rank of SGT effective 1 February 2005.

f. Memorandum from the Commander, Company A, 1st Battalion, 5th Cavalry, 1st Cavalry Division, dated 5 May 2005, who provides proof of the applicant's deployment to Kuwait and Iraq from 8 February 2004 to 25 February 2005.

g. Permanent Orders Number 178-06, Headquarters, 2nd Brigade, 1st Cavalry Division awarded him the Army Commendation Medal for meritorious service from 17 May 2001 to 20 February 2005. Block 8 (Previous Awards) lists the Army Commendation Medal with "V" Device.

h. VA letter, 14 November 2022, a summary of benefits showing 100 percent service- connected disability.

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 and standard review based on law, policy and regulations. Upon review of the applicant's petition and available military records the Board determined the applicant's record contains no evidence of disqualification, nonjudicial punishment, or court-martial convictions during the period of service. The Board noted, the AGCM requires approval and publication in permanent orders, disqualification must be documented and justified. In the absence of such documentation and considering the applicant's promotion to SGT, received "excellent" conduct and efficiency ratings throughout his service and multiple awards for meritorious service, the Board determined there is sufficient evidence to award the Army Good Conduct Medal (1st Award) for the period 17 May 2001 to 16 May 2004

2. The Board noted the Defense Finance and Accounting Service (DFAS) records confirm the applicant received hostile fire/imminent danger pay for service in Kuwait

from 12 January 2004 to 26 February 2005. Based on this the Board granted relief for correction of the applicant's record to show award of the Army Good Conduct Medal and annotate in item 12f (Foreign Service) and item 18 (Remarks) his deployment date.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is 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>	
XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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 relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by adding in:

- item 12f(Foreign Service) 2 years, 8 months and 20 days
- item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): the Army Good Conduct Medal (1st Award) for exemplary service from 17 May 2001 to 16 May 2004 and adding the medal to his DD Form 214 for the period ending 2 June 2005
- item, 18 (Remarks) SERVICE IN KUWAIT FROM 20040112 until 20050226

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):

After review of the applicant's record, make the following administrative correction to the applicant's DD Form 214 for the period ending on 2 June 2005 without action by the Board, by adding the following awards:

- Army Achievement Medal, Permanent Order Number 80-146, 1 August 2004
- Army Commendation Medal with "V" Device, Permanent Order Number 249-67, 6 September 2004
- Army Commendation Medal, Permanent Order Number 178-06, 27 June 2005
- Overseas Service Ribbon

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

a. The AGCM is awarded to individuals who distinguish themselves by their conduct, efficiency, and fidelity. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of 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. Although there is no automatic entitlement to the AGCM, disqualification must be justified.

b. The Army Commendation Medal may be awarded to any 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. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

c. Commanders may recognize periods of faithful service, acts, or achievements which do not meet the standards required for decorations by issuing to individual U.S. military personnel a DA Form 2442 (Certificate of Achievement) or a certificate of achievement of local design. Certificates of achievement will be issued under such regulations as the local commander may prescribe. If a locally-designed certificate of achievement is printed for use according to this regulation, it may bear reproductions of insignia. The citation on such certificates will not be worded so that the act or service performed appears to warrant the award of a decoration. No distinguishing device is authorized for wear to indicate the receipt of a certificate of achievement.

d. Copies of certificates of achievement or memoranda of record stating that a certificate of achievement has been awarded and citing the service recognized will be distributed to the Army Military Human Resource Record. However, The Order of the Combat Spur is a Cavalry tradition within the U.S. Army. Regulations for induction into the Order of the Spur and the wear of cavalry accoutrements are set by each cavalry unit commander and do not appear in Army Regulation 600-8-22 or Army Regulation 670-1 (Wear and Appearance of Army Uniforms and Insignia).

3. Army Regulation 635-8 (Separation Processing and Documents), establishes the standardized policy for preparing and distributing the DD Form 214. Chapter 5 contains guidance on the preparation of the DD Form 214, to include entering foreign service and remarks pertaining to deployment locations and through dates. This regulation requires the following entries:

a. In block 12f (Foreign Service) enter the total amount of service performed outside the Continental United States (OCONUS) during the period covered by the DD Form 214, to include deployments. List periods of deployed service in block 18 (Remarks).

b. In block 18, for an active duty Soldier, list any/all OCONUS deployments completed during the period of the DD Form 214 being created, the statement "Service in (Name of Country Deployed) From (inclusive dates)."

4. 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//