

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 March 2025

DOCKET NUMBER: AR20240007998

APPLICANT REQUESTS: an increase in retired pay for award of his Silver Star Medal for extraordinary heroism.

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

- DD Form 149 (Application for Correction of Military Record)
- Silver Star Citation
- Silver Star Medal, 14 May 1965
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 21 October 1966
- DD Form 214, 8 January 1969
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 31 August 1991,
- Defense Finance and Accounting Service (DFAS) Letter, 1 April 2024

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 is requesting an increase in retired pay as a result of receiving a Silver Star while serving in Vietnam.
3. The applicant provides:
 - a. The certificate for award of the Silver Star Medal with accompanying citation dated 14 May 1965, shows on the reconnaissance patrol the applicant was on duty with was ambushed by a superior enemy force in Vietnam. The point Marine on patrol was seriously wounded and with no regard for his own safety, the applicant left his covered position to retrieve the Marine. The applicant was wounded during his heroic effort, but successfully moved the Marine to safety.

b. Two DD Forms 214 show the applicant served on active duty with the United States Marine Corp (USMC) from 13 August 1962 to 21 October and from 21 June 1967 to 8 January 1969. It also shows he was awarded or authorized:

- Armed Forces Expeditionary Medal
- Purple Heart
- Good Conduct Medal
- Silver Star Medal
- National Defense Service Medal
- Sharpshooter Marksmanship Qualification Badge with Pistol Bar
- Marksman Marksmanship Qualification Badge with Rifle Bar

c. A third DD Form 214 for his active service in the U.S. Army for the period ending 31 August 1991. It also shows he was awarded or authorized the Silver Star Medal and Purple Heart among other decorations.

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

a. Having had prior service in the United States Marine Corps, he enlisted in the Regular Army on 4 January 1977.

b. A DA Form 2339 (Application for Voluntary Retirement) shows in Block 12 (Awards), the block "none" was marked. The awards listed for consideration included the Medal of Honor, Distinguished Service Cross, Navy Cross, Soldiers Medal, Distinguished Flying Cross, or Equivalent Navy Decorations. The Silver Star Medal was not listed among decorations for consideration.

c. On 6 August 1991, he submitted a DA Form 3173 (Data for Retired Pay). He answered No in Block 34 (Eligible for 10% increase in retired pay based on extraordinary heroism).

d. He was retired on 31 August 1991. His DD Form 214 shows he completed 14 years 7 months, and 27 days of active service with 5 years, 8 months, and 27 days of total prior active service. It also shows he was awarded or authorized the Silver Star Medal and Purple Heart, among other decorations.

5. On 1 April 2024, a member of the DFAS staff provided a response regarding the applicant's request for a 10 percent pay increase for Heroism Pay. The applicant was directed to submit an application to the ABCMR. DFAS was unable to increase his retired pay due to extraordinary heroism because they did not receive the orders from the branch of service and Heroism Pay orders were not included by the Army.

6. By regulation (AR 600-8-22) any enlisted member who is credited with

extraordinary heroism in line of duty who retires after 20 or more years active Federal service, is entitled to 10 percent increase in retired pay, subject to the 75 percent limit on total retired pay.

7. By regulation (AR 635-200), a Soldier who has been awarded the Distinguished Flying Cross, the Soldier's Medal, or equivalent Navy decoration may be credited with extraordinary heroism if it is determined that the heroism was equivalent to that required for award of the Distinguished Service. Cross. In all cases involving extraordinary heroism, a copy of the order which awards the decoration and the separate citation if not contained in the order will be submitted to HQDA(TAPC-PDA), 200 Stovall Street, Alexandria, VA 22332-0400 for verification and determination. Previous letters of determination more than 2 years old will be submitted for confirmation and will be accompanied by the order awarding the decoration.

BOARD DISCUSSION:


After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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. The Board determined that the applicant did not meet the criteria for an increase in retired pay based on the award of the Silver Star Medal for extraordinary heroism. While the Silver Star is a prestigious recognition, it does not, by itself, confer eligibility for enhanced pay. After reviewing the available evidence, the Board concluded that there was insufficient documentation to support the applicant's request.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

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.



X //SIGNED//

CHAIRPERSON
Signed by:

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. 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) Chapter 1, paragraph 39 (Increased retired pay based on decorations – enlisted awardees) at that time shows:

a. 10 USC 3991 provides that any enlisted member who is credited with extraordinary heroism in line of duty who retires after 20 or more years active Federal service, is entitled to 10 percent increase in retired pay, subject to the 75 percent limit on total retired pay. Any awardee of the Medal of Honor, the Distinguished Service Cross, Navy Cross, or Air Force Cross satisfies the requirement for extraordinary heroism. An enlisted awardee of the Distinguished Flying Cross awarded for non-combat-related heroism, or the Soldier's Medal may be credited by the Secretary of the Army with extraordinary heroism only if it is determined that the heroism displayed was equivalent to that required for award of the Distinguished Service Cross. These provisions affect enlisted personnel who retire and who have been credited with extraordinary heroism whether or not such heroism was displayed while the individual was serving in enlisted status.

b. Enlisted recipients of any of the six decorations referred to above will complete item 14 of the DA Form 2339 (Application for Voluntary Retirement), when applying for retirement. If the recipient has not previously done so, written request for determination and confirmation of entitlement to increased retired pay will be forwarded to Commander, PERSCOM, ATTN: TAPC-PDA Alexandria, VA 22332-0471. The request will be accompanied by a copy of the order which awards the decoration and the citation, if not included in the order. Personnel Officers and Separation Transfer Point personnel will ensure that item 34 of DA Form 3713 (Data for Retired Pay) is not checked YES until written confirmation and determination have been received from Commander, PERSCOM, ATTN: TAPC-PDA, Alexandria, VA 22332-0471.

3. Army Regulations 635-200 (Enlisted Personnel) Chapter 12, paragraph 4 (Twenty Year Retirement law [10 USC 3914]) states a Soldier who retires under 10 USC 3914 and has been awarded the Medal of Honor, Distinguished Service Cross, or Navy Cross for Extraordinary heroism will have his or her retired pay increased 10 percent. However, the-total retired pay (including the increase) may not exceed 75 percent of the basic pay upon which computed. A Soldier who has been awarded the Distinguished Flying Cross, the Soldier's Medal, or equivalent Navy decoration may be credited with extraordinary heroism if it is determined that the heroism was equivalent to

that required for award of the Distinguished Service Cross. In all cases involving extraordinary heroism, a copy-of the order which awards the decoration and the separate citation if not contained in the order will be submitted to HQDA(TAPC-PDA), 200 Stovall Street, Alexandria, VA 22332-0400 for verification and determination. Previous letters of determination more than 2 years old 'will be submitted for confirmation and will be accompanied by the order awarding the decoration.

//NOTHING FOLLOWS//