

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 June 2025

DOCKET NUMBER: AR20240009893

APPLICANT REQUESTS: correction of his military records to reflect:

- He was awarded the Soldier's Medal
- Back pay of 10 percent increase in his retired pay due to heroism
- Personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 638 (Recommendation for Award shows:
 - On 20 July 2008, the applicant was recommended for the Soldier's Medal
 - On 5 March 2010, the U. S. Army Human Resources Command (AHRC) Awards and Decorations Branch approved awarding the Soldier's Medal
 - Army Decorations Board approved the applicant receive a 10 percent increase in his retire pay
 - Permanent Orders Number 064-49 authorized the awarding of the Soldier's Medal
- E-mail between the applicant and AHRC Awards and Decorations Branch during the period of 10 March through 27 June 2011 regarding the 10 percent increase in retired pay stated:
 - Defense Finance and Accounting Service (DFAS) required AHRC to provide the approved DA Form 638 for the Soldier's Medal to recalculate his retired pay to increase by 10 percent
 - AHRC advised the approved DA Form 638 was sent to DFAS

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 requests the Soldier's Medal be added to his service record
- Paid back pay for the increase of 10 percent to his retired pay for being awarded the Soldier's Medal
- DFAS told him the approved DA Form 638 for the Soldier's Medal was required to recalculate his retired pay which was provided to DFAS
- However, the adjustment to his retired pay has not occurred

3. The correction of the applicant's service record regarding awarding of the Soldier's Medal will not be considered by the Board, supporting documents is sufficient to substantiate correction of the DD Form 214 without action by the Board.

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

- On 25 March 1980, he enlisted in the Regular Army
- He had continuous service through extensions and reenlistments
- On 31 December 2008, he was assigned to the Fort Bragg transition point for retirement from active duty, he was placed on the retired list on 1 January 2009 by Orders Number 259-0298, 15 September 2008
- On 31 December 2008, he was honorably retired and assigned to the U. S. Army Reserve Control Group (Retired Reserve), DD Form 214 does not reflect awarding of the Soldier's Medal
- On 5 March 2010, he was awarded the Soldier's Medal for his heroism on 2 December 2007 when he displayed courage and total disregard for his personal safety when he rescued several individuals from a burning vehicle
- On 5 March 2010, the Army Decorations Board unanimously voted to approve the awarding of the Soldier's Medal to the applicant and approved a 10 percent increase in retired pay

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 regulation. Upon review of the applicant's petition and available military record, the Board found relief was appropriate. On 5 March 2010, the Army Decorations Board approved award of the Soldier's Medal and approved a 10 percent increase in retired pay. Based on this, the Board granted relief to recalculate the retired pay, with all applicable back pay.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable

decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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 note below, the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by showing DFAS timely received the DA Form 638 for increase of retired pay by 10 percent.

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):

1. Amend the DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period of service March 25, 1980 through December 31, 2008, by adding the Soldier's Medal.
2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.
 - DD Form 214 period of service March 25, 1980 through December 31, 2008
 - DA Form 638 (Recommendation for Award) for Permanent Orders Number 064-49, 5 March 2010
Army Decorations Board President Summary Sheet dated March 5, 2010
 - DA Form 4980-6 (The Soldier's Medal Certificate)
3. Please correct the applicant's DD Form 214 as shown in paragraph 1 above. Provide the applicant a copy of the corrections and ensure the corrections are recorded in the applicant's official military personnel file.

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) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. ABCMR members will review all applications that are properly before them to determine the existence of an error or injustice; direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists on the record. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice require.
3. AR 600-8-22 (Military Awards) prescribes Department of the Army (DA) policy, criteria, and procedures for individual and unit military awards and foreign decorations and badges. Paragraph 3-15 (Soldier's Medal) authorizes the SECARMY to award the SM to any person of the Armed Forces of the United States or of a friendly foreign

nation who, while serving in any capacity with the Army of the United States, including RC Soldiers not serving in a duty status at the time of the heroic act, distinguished themselves by heroism not involving actual conflict with an enemy. The minimum degree of heroism required is comparable to that of the DFC for heroism. The extraordinary act must have resulted in an accomplishment so exceptional and outstanding as to clearly set the individual apart from their comrades or from other persons in similar circumstances. The heroism must have involved a clearly recognizable personal hazard or danger and the voluntary risk of life under conditions not involving conflict with an armed enemy. Awards will not be made solely on the basis of saving a life, assisting emergency personnel, or acting as a good Samaritan. The SM may be awarded for noncombat heroism in a combat zone or an area designated for imminent danger pay, hostile fire pay, or hazardous duty pay. (1) Since the SM is only awarded for non-combat heroism, the "V" and "C" devices are not authorized. (2) This determination must be made solely on the specific circumstances of the event. (3) If the heroism to be recognized was performed under combat conditions, a decoration for valor is the appropriate award. If downgraded, a SM recommendation will be downgraded to an ARCOM. All SM award recommendations will be forwarded to Chief, HRC ADB for determination.

4. Title 10 United States Code (USC), section 3991 (Computation of retired pay), a (2) Additional 10 percent for certain enlisted members credited with extraordinary heroism. If a member who is retired under section 3914 of this title has been credited by the Secretary of the Army with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to no more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

//NOTHING FOLLOWS//