

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2025

DOCKET NUMBER: AR20240011850

APPLICANT REQUESTS:

- the daughter of the deceased service member (SM), requests correction of the SM's WD AGO Form 53-55 (Enlisted Record and Report of Separation – Honorable Discharge) to show award of the Silver Star
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Honorable Discharge Certificate
- SM Death Certificate
- SM Spouse Death Certificate
- Applicant Birth Certificate
- Privacy Release Statement
- Son's Birth Certificate (shows applicant's maiden name)

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 the SM's WD AGO 53-98 should be corrected to show his Silver Star, for addition to his head stone. She referenced General Orders Number 50, dated March 1945; however, the orders were not provided. The applicant further noted the four awards allowed on a headstone are the Medal of Honor, Service Cross, the Silver Star, and the Purple Heart. The Purple Heart was the only award allowed on his headstone at the time of his death. This request is related to the SM's service in World War II.

3. The SM's complete military records are not available to the Board for review. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center in 1973. It is believed that the SM's records were lost or destroyed in that fire, however, there were sufficient documents remaining in a reconstructed records for the Board to conduct a fair and impartial review of the case.

a. He was inducted into the Army of the United States on 8 January 1944.

b. The available service record includes three Information from the Hospital Admission Cards which show:

(1) On 14 December 1944, the SM was admitted to the Hospital (portable surgical), for a disease in line of duty, skin; released from hospital in December 1944.

(2) On 15 February 1945, the SM was admitted to the General Hospital (European Theatre) for a battle casualty, perforating wound to his shoulder, due to a machine gun, bullet; and released from hospital in March 1945.

(3) On 2 May 1945, the SM was admitted to the General Hospital (European Theatre), for a battle casualty, wound to his eye, and wound to his thigh, due to artillery shell fragments, resulting in a loss of eye and defective hearing; and discharged or retired for disability in November 1945.

b. A Certificate of Disability for Discharge dated 20 November 1945, shows the SM became unfit for duty on 2 May 1945, due to results of battle traumatism.

c. He was honorably discharged from active duty on 23 November 1945. His WD AGO Form 53-55 shows he completed 1 year, 1 month, and 10 days of active service with 8 months and 15 days of foreign service. On 12 October 1944, he departed for the European Theater of Operation (ETO) and returned to the U.S. on or about 26 June 1945. Block 32 (Battles and Campaigns) shows Northern France and Rhineland with wounds received in action in ETO. It also shows he was awarded or authorized

- Combat Infantryman Badge
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-1)
- European African and Middle Eastern Service Medal with two bronze battle stars
- Purple Heart (2nd Award)

d. The SM's service records are void of a Silver Star.

e. His records are void of any disciplinary actions or a commander's disqualification for award of the Army Good Conduct Medal for the period 8 January 1944 through 23 November 1945.

5. A review of the applicant's record confirms he is eligible for an award and campaign credits that are not recorded on his DD Form 214. The entries will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

6. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the former service member'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 the former's SM's available military records, the Board determined there is insufficient evidence to support the applicant's contentions for correction of the SM's WD AGO Form 53-55 (Enlisted Record and Report of Separation – Honorable Discharge) to show award of the Silver Star. The Board found no supporting documentation in the SM's record showing he was ever awarded the requested Silver Star Medal.

2. However, during deliberation, the Board determined the SM's records did not reflect he was awarded the Army Good Conduct Medal (1st Award) and his record shows he received "excellent" conduct and efficiency ratings throughout his service for the period of 8 January 1944 through 23 November 1945. Based on this, the Board granted partial relief to correct the applicant's record and award him the Army Good Conduct Medal.

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.

4. 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.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

1. 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 partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding him the Army Good Conduct Medal (1st Award) for exemplary service from 8 January 1944 through 23 November 1945.and adding the medal to his WD AGO Form 53-55 for the period ending 23 November 1945.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to award of the Silver Star.

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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):

A review of the SM's records show the SM was awarded or authorized the following awards not reflected on his WD AGO Form 53-55. As a result, amend his WD AGO Form 53-55 to show:

- World War II Victory Medal
- American Campaign Medal
- Bronze Star Medal

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 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.

3. Army Regulation 600-8-22 (Military Awards) states:

a. The World War II Victory Medal is awarded for service between 7 December 1941 and 31 December 1946, both dates inclusive.

b. The American Campaign Medal is awarded for qualifying service in the American Theater between 7 December 1941 and 2 March 1946. Qualifying service for this campaign medal includes permanent assignment outside the continental United States but within the American Theater of Operations, or duty as a crewmember aboard a

vessel sailing ocean waters for 30 consecutive or 60 nonconsecutive days, or duty outside the continental United States as a passenger or in a temporary duty status for 30 consecutive or 60 nonconsecutive days, or active combat against the enemy and was awarded a combat decoration or furnished a certificate by a corps commander or higher, or service within the continental United States for an aggregate period of one year.

c. The Bronze Star Medal is awarded for heroism and for meritorious achievement or service in military operations against an armed enemy. The Bronze Star Medal is authorized for each individual who was cited in orders or awarded a certificate for exemplary conduct in ground combat between 7 December 1941 and 2 September 1945 or whose achievement or service, during that period, was confirmed by documents executed prior to 1 July 1947. An award of the Combat Infantryman Badge or the Combat Medical Badge is considered to be a citation in orders. Therefore, the Bronze Star Medal is to be awarded to individuals who were authorized either badge for service during World War II.

d. The Silver Star is awarded for gallantry in action against the enemy. The required gallantry (spirited and conspicuous acts of heroism and courage) must have been performed with marked distinction. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

4. Army Regulation 672-5-1 (Awards), in effect at the time, stated the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for 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 immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

5. Army Regulation 635-5 (Separation Documents) prescribed the separation documents that would be furnished each individual who was separated from the Army including Active-Duty Training personnel and established standardized procedures for the preparation and distribution of these documents. All available records would be used as a basis for the preparation of the DD Form 214, including DA Form 20, DA Form 66, and orders. In item 31 enter all decorations, service medals, campaign credits, and badges awarded or authorized, omitting authorities cited therein.

//NOTHING FOLLOWS//