

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 August 2025

DOCKET NUMBER: AR20250007880

APPLICANT REQUESTS:

- upgrade of the Silver Star to the Medal of Honor for himself and three now deceased former service members (SM)
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Letter to the Secretary of the Army

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 initially submitted the awards upgrade recommendations in 2002, and those recommendations remained unaccounted for from 2002 to 2008; he asserts there is incontrovertible evidentiary documentation that confirms this
- The applicant discloses he is a retired military officer with 24 years of active service; he is now in his 80s and is the last surviving veteran of the four whose Medal of Honor recommendations were "lost" for 6 years
- He emphasizes this is not a solicitation for an award; rather, he is appealing for equal and fair consideration of his upgrade requests, which, he declares, were grossly mismanaged through a broken awards process
- His appeal is directed towards the Office of the Secretary of the Army, because it is the governing authority over the ABCMR; the Board's mismanagement actions were prejudicial, and, as a result, the applicant has little or no confidence that another determination will be any different
- The errors/injustices requiring correction are as follows:

- ERROR NO. 1: Loss of four Medal of Honor Upgrade Recommendations for Lieutenant Colonel (LTC) J\_\_ R. M\_\_ (USA Ret); [Applicant]; Sergeant (SGT) A\_\_ L. C\_\_ (SM); and Specialist Four (SP4) J\_\_ M. R\_\_ (SM)
  - ERROR NO. 2: A. Contrary to regulations, the Awards Board processed the "lost recommendations"; B. Contrary to regulations, the Awards and Decorations Board's "adjudication" determination was inappropriate
  
  - The applicant apologizes for the "lack of decorum" in this notification; "I will petition, however, for my three comrades-in-arms who have preceded me in passing on...They have no one to intercede on their behalf"
  - The applicant concludes by providing the name and contact information of a retired colonel who was a battle participant, and who has a comprehensive knowledge of air assault operations
3. A review of the applicant's service record shows the following:
- On 7 April 1964, after completing over 7 years of Regular Army enlisted service, graduating as a warrant officer candidate from the U.S. Army Aviation School, and earning the designation of Army Aviator, the applicant executed his oath of office as a warrant officer one (WO1) in the U.S. Army Reserve
  - On 12 August 1965, orders transferred him to Vietnam and further assigned him to an air assault helicopter battalion in the 1st Cavalry Division (Airmobile)
  - On 14 November 1965, the applicant was the pilot of the lead helicopter in a flight of four; their mission was to move troops into a landing zone during a battle
  
  - Because of effective artillery fire prior to their arrival, the helicopters initially encountered limited enemy resistance; however, on the fifth lift, the landing zone came under devastating enemy fire
  - Despite being told of the heavy enemy fire, the applicant unhesitatingly returned in the landing zone to drop off fresh troops and ammunition; extremely accurate hostile fire killed or wounded troops as they exited the aircraft
  - A short time later, the infantrymen reported their ammunition supply was almost exhausted and seriously wounded Soldiers required immediate medical attention or they would not survive
  - The applicant immediately volunteered to resupply ammunition and medically evacuate the wounded; amid intense hostile fire, the applicant once again set down his aircraft in the landing zone
  - With complete disregard for his personal safety, the applicant remained on the ground as Soldiers unloaded the ammunition and positioned the casualties in the helicopter; several of those Soldiers died as a result of the intense enemy fire

- Exercising the utmost in piloting skills, the applicant successfully maneuvered his heavily loaded aircraft between tall trees to lift off from the landing zone and depart the battlefield
- On 5 May 1966, General Orders awarded the applicant the Distinguished Flying Cross for his valorous actions, on 14 November 1965; on 11 July 1966, the applicant executed his oath of office as a second lieutenant in the U.S. Army Reserve; on 17 August 1966, the applicant completed his tour in Vietnam
- Effective 1 August 1977, the Army promoted the applicant to major (MAJ)/O-4
- On 30 November 1980, the Army honorably retired the applicant
- His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed a combined 24 years and 16 days of net active duty service; item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) lists the following:
  - Army Good Conduct Medal (1st Award)
  - Air Medal (41st Award)
  - Army Commendation Medal (4th Award)
  - Army Aviator Badge
  - Distinguished Flying Cross
  - Republic of Vietnam Campaign Medal with Device (1960)
  - Parachutist Badge
  - Purple Heart
  - Republic of Vietnam Gallantry Cross with Palm
  - Vietnam Service Medal
  - National Defense Service Medal
  - Senior Army Aviator Badge
- On 22 May 2002, The Adjutant General, Department of the Army, issued the applicant a DD Form 215 (Correction to DD Form 214), which listed the following corrections: Distinguished Flying Cross (2nd Award) and Air Medal (Twenty-Second through Fortieth Oak Leaf Cluster (i.e., 41st Award))
- Prior to June 2003, and under the provisions of Title 10 (Armed Forces), U.S. Code, section 1130 (Consideration of Proposals for Decorations not Previously Submitted in Timely Fashion: Procedures for Review), the applicant submitted Medal of Honor upgrade requests to Members of Congress for himself and the three SMs
- On 17 June 2003, the applicant's U.S. Senator forwarded the applicant's Medal of Honor recommendation to the U.S. Army Human Resources Command (HRC); both the Army Decorations Board (ADB) and Senior Army Decorations Board (SADB) considered the applicant's Medal of Honor recommendation

- On 12 January 2009, the Secretary of the Army wrote SP4 J\_\_ M. R\_\_'s U.S. Senator:
  - The Secretary acknowledged the Senator's request to upgrade former SP4 J\_\_ M. R\_\_'s Bronze Star Medal with "V" Device to the Medal of Honor and noted that, in accordance with the Army's normal process, the SADB had reviewed the request and forwarded its recommendation to the Secretary
  - "After giving this request my careful and personal consideration, it is my determination that the award of the Silver Star, one of the top three coveted awards for valor in the United States Army, is the appropriate award to recognize then-SP4 J\_\_ M. R\_\_'s heroic acts"
- On 17 September 2009, the Secretary of the Army returned the applicant's Medal of Honor packet to the SADB and recommended the SADB consider the applicant for the Silver Star
- On 20 October 2009, the Chief, Military Awards Branch, HRC, informed former SGT A\_\_ L. C\_\_ of the outcome of the applicant's request to upgrade SGT C\_\_'s Bronze Star Medal with "V" Device to Medal of Honor
  - After determining that SGT C\_\_'s actions, on 14 November 1965, did not meet Medal of Honor criteria, the Secretary of the Army recommended and approved him for the Silver Star
  - The Permanent Orders; Silver Star citation and medal set; and a DD Form 215, reflecting the correction to SGT C\_\_'s DD Form 214, were all forwarded to SGT C\_\_'s U.S. Representative for presentation to SGT C\_\_
- In or around December 2009, LTC J\_\_ R. M\_\_'s Distinguished Flying Cross was upgraded to the Silver Star
- On 14 December 2009, the SADB approved the applicant's Silver Star; also, on 14 December 2009, HRC issued Permanent Orders announcing the applicant's award of the Silver Star
- On 11 March 2010, Chief, Military Awards Branch, HRC wrote the applicant's U.S. Senator and advised him that the SADB had approved the applicant for the Silver Star; with the letter, HRC enclosed the Permanent Orders, medal set, certificate, and DD Form 215 for later presentation

#### BOARD DISCUSSION:

1. 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 the President of the United States awards the Medal

of Honor and presents it in the name of the Congress. The Medal of Honor is awarded to a person who distinguished themselves conspicuously by gallantry and intrepidity at the risk of their life above and beyond the call of duty while engaged in military operations; the deed performed must have been one of personal bravery or self-sacrifice to clearly distinguish their exceptional actions and must have involved risk of life. Incontestable proof of the performance for the award will be considered on the standard of extraordinary. The Board noted the applicant outstanding service in face of combat and concurred with HRC's upgrade of the award he received from the Distinguished Flying Cross to the award of the Silver Star for his exemplary actions; however, the Board determined the applicant did not meet criteria for award of the Medal of Honor and denied relief.

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.

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//

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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.

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), currently in effect, prescribes policies and procedures for military awards.

a. Paragraph 1-7 (Deputy Chief of Staff (DCS), G-1). The DCS, G-1 oversees the Commanding General (CG), U.S. Army Human Resources Command (HRC). In turn, the CG, HRC requires the Chief, Awards and Decorations Branch to ensure the Army Decorations Board, Senior Army Decorations Board, and Army Unit Decorations Board are conducted properly and in accordance with the Secretary of the Army's Board Charter.

b. Paragraph 1-16 (Reconsideration or Appeal of Previous Award Recommendations).

(1) A request for reconsideration or the appeal of a disapproved or downgraded award or a request for an upgrade of a previously approved recommendation must be placed in official channels within 1 year from the date of the awarding authority's decision. A one-time reconsideration by the award approval authority will be conclusive.

(2) Recommendations are submitted for reconsideration or appeal only if new, substantive, and material information is furnished. Additionally, only the award recommender or someone in the approving chain of command may request reconsideration.

(3) Requests for reconsideration must be forwarded through the same official channels as the original recommendation. The justification for reconsideration must be in letter format, not to exceed two single-spaced typewritten pages. A copy of the original recommendation, with all endorsements, and the citation must be attached. If the original recommendation is no longer available, a reconstructed recommendation must be submitted. Once HRC or the approval authority makes a decision on the award reconsideration, filing an application with the Army Board for Correction of Military Records is the submitter's only remaining option.

c. Paragraph 3-9 (Medal of Honor). The Medal of Honor (Title 10 (Armed Forces), U.S. Code, section 7271 (Medal of Honor: Award) was established by Joint Resolution of Congress, 12 July 1862 (as amended by Acts of 9 July 1918 and 25 July 1963).

(1) The President of the United States awards the Medal of Honor and presents it in the name of the Congress. The Medal of Honor is awarded to a person who, while a member of the Army, distinguished themselves conspicuously by gallantry and intrepidity at the risk of their life above and beyond the call of duty while engaged in an action against an enemy of the United States; while engaged in military operations involving conflict with an opposing foreign force; or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(2) The deed performed must have been one of personal bravery or self-sacrifice so conspicuous as to clearly distinguish the individual above their comrades and must have involved risk of life. Incontestable proof of the performance of the service must be exacted and each recommendation for the award of this decoration will be considered on the standard of extraordinary.

d. Paragraph 3-10 (Distinguished Service Cross).

(1) A 1918 Act of Congress established the Distinguished Service Cross, and it is awarded to a person who, while serving in any capacity with the Army, distinguished themselves by extraordinary heroism not justifying the award of a Medal of Honor; while engaged in an action against an enemy of the United States; while engaged in military operations involving conflict with an opposing or foreign force; or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(2) The act or acts of heroism must have been so notable and have involved risk of life so extraordinary as to set the individual apart from their comrades.

e. Paragraph 3-12 (Silver Star).

(1) The Silver Star is awarded to persons who, while serving in any capacity with the U.S. Army, are cited for gallantry in action that does not warrant award of a Medal of Honor or the Distinguished Service Cross.

(2) The required gallantry must have been performed with marked distinction against an enemy of the United States while engaged in military operations involving conflict with an opposing foreign force or while serving with friendly foreign forces engaged in armed conflict against an opposing armed force in which the United States is not a belligerent party.

f. Appendix J (Initial Consideration and Reconsideration of an Award through a Member of Congress).

(1) Pursuant to Title 10, U.S. Code, section 1130 (Consideration of Proposals for Decorations not Previously Submitted in Timely Fashion: Procedures for Review), when an award is not otherwise authorized to be presented or awarded due to limitations established by law or policy regarding the timely submission of an award recommendation, Members of Congress may request the Secretary of the Army to review a proposal for the award or presentation of a decoration, either for an individual or a unit.

(2) Based upon such a request, the Secretary of the Army will make a determination as to the merits of approving the award or presentation of the decoration and other determinations necessary to comply with Title 10, U.S. Code, section 1130.

(3) Appendix J outlines a step-by-step process for the consideration of awards under the 1130 process. The Chief, Awards and Decorations Branch at HRC is responsible for receiving and reviewing 1130 requests; obtaining decisions on the requests; and providing written notification of the results to the sponsoring Member of Congress.

3. AR 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-5 (Administrative Remedies). The ABCMR will not consider an application until the applicant has exhausted all administrative remedies to correct the alleged error or injustice

c. Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

d. Paragraph 2-11 (ABCMR Hearings) states applicants do not have a right to a hearing before the ABCMR; however, the Director or the ABCMR may grant a formal hearing.

//NOTHING FOLLOWS//