

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF:

BOARD DATE: 22 March 2023

DOCKET NUMBER: AR20220008184

APPLICANT REQUESTS: in effect, award of the Combat Infantryman Badge and Presidential Unit Citation.

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

- DD Form 149 (Application for Correction of Military Record), 18 May 2022
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 18 June 1970
- Department of Veteran Affairs (VA) rating decision, 30 March 2016

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, in effect, he fought in 3 battles in Vietnam and other members of his unit were awarded the aforementioned awards.
3. A review of the applicant's record and Army regulations shows the applicant is authorized additional awards not currently listed on his DD Form 214. These awards will be addressed through an administrative correction without action by the Board.
4. The applicant was inducted into the Army of the United States on 13 August 1968. His DA Form 20 (Enlisted Qualification Record) shows he held military occupational specialty 95B, Military Policeman.
5. The applicant's DA Form 20 contains the following information:
 - a. Item 31 (Foreign Service) shows service in the Republic of Vietnam from 18 January 1969 to 17 January 1970.

b. Item 38 (Record of Assignments) shows he was assigned to the following units/locations:

(1) United States Army Depot (USAD), U.S. Army Pacific Command (USARPAC), Vietnam (26 January 1969 to 10 April 1969).

(2) Security Guard Company, USAD Long Binh - USARPAC, Vietnam (11 April 1969 to 16 January 1970).

c. Item 40 (Wounds) does not list any wounds or injuries

d. Item 41 (Awards and Decorations) does not list the Combat Infantryman Badge or Presidential Unit Citation.

6. The applicant was honorably released from active duty on 18 June 1970. He completed 1 year, 10 months, and 6 days of active service. Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) of his DD Form 214 lists the following awards:

- National Defense Service Medal
- Republic of Vietnam Campaign Medal
- Vietnam Service Medal with 3 bronze stars
- Expert Marksmanship Qualification Badge (Rifle)
- 2nd Class Gunner Badge (M-60)

7. He provides a VA rating decision, dated 3 October 1986, that shows he has a service connection disability for post-traumatic stress disorder.

8. The applicant did not provide nor do his records contains evidence he was awarded the Combat Infantryman Badge.

9. A review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders (and some special orders) issued during the Vietnam-era between 1965 and 1973, maintained by the Military Awards Branch of the U.S. Army Human Resources Command, failed to reveal any special orders for the Combat Infantryman Badge pertaining to the applicant.

10. The applicant's record does not contain evidence his commander disqualified him for award of the Army Good Conduct Medal (1st Award). He received all excellent conduct and efficiency rating. His record does not contain evidence of a court-martial conviction nor any other derogatory information that would disqualify him from the first award of the Army Good Conduct Medal.

11. Regulatory guidance states there are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat.

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 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 records Board determined the applicant's record is absent that he served in the military occupational specialty (MOS) 11B (Infantryman). Evidence in the record show the applicant served as a 95B, Military Policeman. Based on governing regulation the applicant did not meet the criteria to be awarded the Combat Infantryman Badge. The Board found insufficient evidence that applicant's unit was awarded the Presidential Unit Citation.

2. However, the Board determined the applicant's service record did not reflect he was awarded the Army Good Conduct Medal (1st^t Award) and his record shows he received "excellent" conduct and efficiency ratings throughout his service. Therefore, partial relief was granted to correct the applicant's record and award him the Army Good Conduct Medal.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
X	X	X	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 13 August 1968 to 18 June 1970 and adding the medal to his DD Form 214 for the period ending 18 June 1970.

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 Combat Infantryman Badge and Presidential Unit Citation.

X

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):

Make the following administrative corrections -

- a. delete the Vietnam Service Medal with 3 bronze stars from item 24 of the DD Form 214.
- b. add the following awards to item 24 of the DD Form 214:
 - Vietnam Service Medal with 4 bronze service stars
 - Meritorious Unit Commendation

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 prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. Paragraph 8-6 states, award of the Combat Infantryman requires three requirements: The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat. Specific requirements state, in effect, that an Army enlisted Soldier must have an infantry or special forces specialty and must have satisfactorily performed duty while assigned or attached as a member of an infantry, ranger, or special forces unit of brigade, regimental, or smaller size during any period such unit was engaged in active ground combat. A recipient must be personally present and under hostile fire while serving in an assigned infantry or special forces primary duty, in a unit actively engaged in ground combat with the enemy.

b. Paragraph 7-12 states, The Presidential Unit Citation is awarded to units of the Armed Forces of the United States and cobelligerent nations for extraordinary heroism in action against an armed enemy occurring on or after 7 December 1941. The unit must display such gallantry, determination, and esprit de corps in accomplishing its mission under extremely difficult and hazardous conditions as to set it apart from and above other units participating in the same campaign.

c. A bronze service star will be awarded for wear on the Vietnam Service Medal for participation in each campaign. During his service in Vietnam, the applicant participated in the following campaigns:

- Vietnam Counteroffensive, Phase VI, 2 November 1968—22 February 1969
- TET 69 Counteroffensive, 23 February 1969—8 June 1969
- Vietnam Summer - Fall 1969, 9 June 1969—31 October 1969
- Vietnam Winter - Spring 1970, 1 November 1969—30 April 1970

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. This pamphlet shows United States Army Depot - Long Binh was cited for the following unit award:

a. Department of the Army General Orders (DAGO) Number 39, dated 1970, awarded the Meritorious Unit Commendation medal for the period 1 September 1968 to 31 July 1969.

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 the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in General Orders.

5. 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. 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.

//NOTHING FOLLOWS//