



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

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Docket No: 3657-22  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 18 November 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, an advisory opinion (AO) provided by Navy Department Board of Decorations and Medals (NDBDM) dated 19 August 2022, and applicable statutes, regulations, and policies.

You enlisted in the U.S. Marine Corps and began a period of active duty on 30 June 1966. You deployed to Vietnam on 15 December 1966. During your deployment, you were shot by friendly fire from another Marine. You were discharged on 10 April 1969. On 14 March 2000, Retired Records Review denied your request for a Purple Heart Medal (PH). On 16 June 2008, Headquarters Marine Corps also denied your request for a PH.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with applicable statutes and regulations. These included, but were not limited to, your desire for you to be awarded the Purple Heart Award. You stated that while you were in the hospital, the General did not award you a Purple Heart and that he asked his Captain if you were eligible and he said he would check on it. At the time, you did not qualify to be awarded the Purple Heart due to you being shot by friendly fire that did not occur while in action.

The Board requested an AO from the NDBDM based on your request. The AO stated in pertinent part:

Per reference (d), awards of the PH must be based upon verifiable facts, and specifically upon documented evidence in the member's service and medical records. Our review of the Petitioner's service records discovered a 23 Apr 1967 casualty report stating his injury was caused by a fellow Marine who accidentally discharged his weapon while on a helicopter. The circumstances surrounding the Petitioner's injury were brought before a Judge Advocate General investigative board in 1968, which concluded the Petitioner's injuries were incurred in the line of duty and were not the result of misconduct. Per references (b) and (d), friendly fire incidents that did not occur in action with the enemy do not qualify for award of the PH. Therefore, we conclude that the Petitioner's injury does not qualify for the PH.

The AO concluded, "the Petitioner is not entitled to the PH, and therefore recommend the BCNR deny relief in this case. We found no evidence of material error or injustice. Were BCNR to grant relief in this case, such action would be inconsistent with the criteria and standards applied to all other Marines."

After a thorough review of your record, including the documents you submitted with your application, the Board concluded your injury does not qualify for the Purple Heart Award. In making this finding, the Board concurred with the AO. While the Board commends your honorable and faithful service in the Marine Corps, unfortunately, upon review of the evidence provided, the Board concluded that it did not have a basis to grant you the PH. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

11/30/2022

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Executive Director  
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