RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2008-01469

INDEX CODE: 107.00

XXXXXXXXXXXXXXXXXX COUNSEL: NONE

HEARING DESIRED: NO

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APPLICANT REQUESTS THAT:

He be awarded the Purple Heart (PH) and his “Vietnam ribbons.”

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APPLICANT CONTENDS THAT:

The Department of Veterans Affairs (DVA) has determined the injury he incurred while serving in Vietnam was related to his military service.

In support of his appeal, the applicant provides copies of his DD Form 214; a DVA Rating Decision, dated 10 March 2008, granting service connection for residuals of injury to the right fifth metacarpal with traumatic arthritis and deferring a decision concerning three other compensation entitlements; and a personal statement with an additional DVA document granting service connection for residuals of injury to the right fifth metacarpal with traumatic arthritis.

Applicant’s complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

The applicant enlisted in the Regular Air Force on 16 March 1971 and served as an inventory management specialist until being honorably discharged in the grade of sergeant (E-4) on 8 May 1973. He completed 7 months and 16 days of foreign and/or SEA service, and his last duty assignment was Udorn RTAFB, Thailand. HQ AFPC has taken action to administratively correct his DD Form 214 to reflect entitlement to the Air Force Outstanding Unit Award with Valor (AFOUA w/V), Vietnam Service Medal (VSM), Republic of Vietnam Gallantry Cross with Palm (RVNGC w/P), and the Republic of Vietnam Campaign Medal (RVNCM). All attempts to obtain copies of his Service Medical Records and DVA Records have been unsuccessful.

In accordance with Air Force Manual (AFM) 900-3, dated 20 November 1969, the PH was awarded for wounds received while serving in any capacity with the U.S. Armed Forces in any action against an enemy of the U.S. and as a result of an act of any such enemy. For the purpose of considering awarding a PH, a wound was defined as an injury to any part of the body from an outside force or agent. A physical lesion was not required, provided the concussion or other form of injury received was due to direct enemy, opposing force, or hostile foreign force action. A wound for which the award is made must have required treatment by a medical officer, and the records of medical treatment for wounds or injuries received must have been a matter of official record.

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AIR FORCE EVALUATION:

AFPC/DPSIDRA recommends denial of the applicant’s request for award of the PH as he has provided no detailed account, eyewitness statement, or medical documents verifying the specific event in question.

The AFPC/DPSIDRA evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A complete copy of the evaluation was forwarded to the applicant on 23 December 2008, for review and comment, within 30 days. However, as of this date, no response has been received by this office.

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THE BOARD CONCLUDES THAT:

1.  The applicant has exhausted all remedies provided by existing law or regulations.

2.  The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.

3.  Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. We note that AFPC has taken action to have the applicant’s DD Form 214 corrected to reflect award of the AFOUA w/V, VSM, RVNGC w/P, and the RVNCM; therefore, the only remaining issue before this Board is his request for entitlement to the PH. We are not unmindful or unappreciative of the applicant's service to our Nation; however, after thoroughly reviewing the evidence of record and documentation provided, we are not persuaded that his injury meets the criteria for the PH. In this respect, we note the regulation governing award of the PH requires documentation to support that a member was wounded as a direct result of enemy action and received medical treatment by medical personnel. After a thorough review of his submission and the supporting documentation he provided, we could find no medical documentation of treatment in a field hospital or any documentation to substantiate the injury was a direct result of enemy action. We also took notice the DVA has awarded the applicant a service-connected disability rating for a hand injury; however, the DVA award was based strictly on documented service-connection and did not take into consideration whether or not it was a direct result of enemy action. Therefore, in the absence of documentation to verify his injury was a direct result of enemy action and he received medical treatment by medical personnel, we find no compelling basis to recommend granting the relief sought in this application.

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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered Docket Number BC-2008-01469 in Executive Session on 11 February 2009, under the provisions of AFI 36-2603:

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 10 Apr 08, w/atchs.

Exhibit B. Letter, AFPC/DPSIDRA, dated 20 Oct 08.

Exhibit C. Letter, AFPC/DPPRY, dated 26 Nov 08, w/atchs.

Exhibit D. Letter, SAF/MRBR, dated 23 Dec 08.