

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 March 2023

DOCKET NUMBER: AR20220008284

APPLICANT REQUESTS: In effect:

a. Correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending on 1 March 1973 to show he was awarded the following awards:

- Parachute Badge “Jump Wings”
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Army Commendation Medal (ARCOM)
- National Defense Service Medal (NDSM)
- Air Medal (AM)
- Combat Infantryman Badge (CIB)
- Bronze Star Medal (BSM)
- Purple Heart (PH)

b. To reflect his prior service on his DD Form 214 for the period ending on 1 March 1973.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 for the period ending on 1 March 1973
- Department of Veterans Affairs (VA) Freedom of Information Act or Privacy Act Request

FACTS:

1. The applicant did not file within the three-year time frame provided in Title 10, United States Code (USC), 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, his date of entry and prior discharge is not listed on his DD Form 214 for the period ending on 1 March 1973, and he is missing many awards. This is interfering with his benefits.

3. The applicant provides his DD Form 214 for the period ending 1 March 1973.

4. A review of the applicant's service record shows:

a. On 13 June 1968, he enlisted in the Regular Army (RA).

b. DD Form 214 for the period ending on 6 April 1970, shows he entered active duty on 13 June 1968. He was honorably discharged and completed 1 year, 9 months, and 20 days of net active service this period. This document also reflects in item 24 (Decorations, Medals, Badges, Commendations, Citation and Campaign Ribbons Awarded or Authorized) the following awards:

- Parachute Badge
- ARCOM
- NDSM
- AM
- CIB
- Vietnam Service Medal (VSM)
- Vietnam Campaign Medal (VCM)
- Two Overseas Service Bars

c. DA Form 20 (Enlisted Qualification Record) shows in:

- Item 31 Foreign Service: 10 January 1969 through 16 November 1969 – Vietnam and from 2 July 1971 through 29 March 1972 – Vietnam
- Item 40 (Wounds): Gun Shot Wound on 29 October 1969
- Item 41 (Awards and Decorations): he was authorized the following awards:
 - NDSM
 - Parachute Badge
 - VSM
 - CIB
 - ARCOM
 - AM
 - VCM
 - One Overseas Service Bar
 - BSM

d. DD Form 214 for the period ending 1 March 1973 shows he was honorably

released from active duty and transferred back to the Army National Guard. This document also reflects his prior military service and the awards he received.

- Item 22a(2) (Other Service) shows he completed 1 year, 9 month, and 20 days of other service) which covers his prior enlistment
- Item 24 (Awards) shows he was awarded the following awards:
 - BSM
 - One Overseas Service Bar
 - VSM
 - VCM with 1960 Device

e. The applicant's records are void of orders of a Purple Heart.

f. A review of ADCARS reflects the applicant's name was listed for a gunshot wound.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that partial relief was warranted. The Board noted the administrative corrections below and agreed that his record should be corrected accordingly. The Board further noted that the applicant's prior period of service is already denoted on his DD214 for the period ending 1 Mar 73 and refers him to block 30 (Remarks).

2. The Board carefully considered the request for the Purple Heart. In reviewing supporting documentation, the Board noted the reference to a gunshot wound on his DD Form 20 and the ADCARS review showing the applicant's name listed for a gunshot wound. Further, the Board also noted that his DD Form references a gunshot wound. After due consideration of the case, the Board determined the evidence presented sufficient to warrant a recommendation for relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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 relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending his DD Form 214 for the period ending 6 April 1970 to show:

- Purple Heart
- Parachute Badge
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Army Commendation Medal
- Air Medal
- VSM with one silver service star and one bronze service star
- Combat Infantryman Badge

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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 applicant's records shows he is authorized an additional award not listed on his DD Form 214 for the period ending on 1 March 1973. As a result, amend his DD Form 214 for the period ending on 1 March 1973 by adding to item 13 (Awards) the following awards:

- Parachute Badge
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Army Commendation Medal
- National Defense Service Medal
- Air Medal
- VSM with one silver service star and one bronze service star
- Combat Infantryman Badge

REFERENCES:

1. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within three 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 three-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 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart is awarded for a wound sustained while in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify that the wound was the result of hostile action, the wound must have required treatment by medical personnel, and the medical treatment must have been made a matter of official record.

b. A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed above. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the Service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

c. When contemplating an award of the Purple Heart, the key issue that commanders must take into consideration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite, but is not the sole justification for award.

d. Examples of enemy-related injuries that clearly justify award of the Purple Heart include concussion injuries caused as a result of enemy-generated explosions resulting in a mild TBI or concussion severe enough to cause either loss of consciousness or restriction from full duty due to persistent signs, symptoms, or clinical finding, or impaired brain function for a period greater than 48 hours from the time of the concussive incident.

e. Examples of injuries or wounds that clearly do not justify award of the Purple Heart include post-traumatic stress disorders, hearing loss and tinnitus, mild TBI or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical finding of impaired brain function.

f. When recommending and considering award of the Purple Heart for a mild TBI or concussion, the chain of command will ensure that both diagnostic and treatment factors are present and documented in the Soldier's medical record by a medical officer.

3. Army Directive 2011-07 (Awarding the Purple Heart), dated 18 March 2011, provides clarifying guidance to ensure the uniform application of advancements in medical knowledge and treatment protocols when considering recommendations for award of the Purple Heart for concussions (including mild TBI and concussive injuries that do not result in a loss of consciousness). The directive also revised AR 600-8-22 to reflect the clarifying guidance.

a. Approval of the Purple Heart requires the following factors among others outlined in Department of Defense Manual 1348.33 (Manual of Military Decorations and Awards), Volume 3, paragraph 5c: wound, injury or death must have been the result of an enemy or hostile act, international terrorist attack, or friendly fire and the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound shall be documented in the Soldier's medical record.

b. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer provided a medical officer includes a statement

in the Soldier's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

c. A medical officer is defined as a physician with officer rank. The following are medical officers: an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer in accordance with Title 10, U.S Code, section 101.

d. A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants and other medical professionals qualified to provide independent treatment (for example, independent duty corpsmen and Special Forces medics). Basic corpsmen and medics (such as combat medics) are not physician extenders.

e. When recommending and considering award of the Purple Heart for concussion injuries, the chain of command will ensure that the criteria are met and that both diagnostic and treatment factors are present and documented in the Soldier's medical record by a medical officer.

4. Army Regulation 635-5 (Separation Documents) in effect at the time, states that the DD Form 214 will reflect the conditions and circumstances that existed at the time the records were created. The purpose of the separation document is to provide the individual with documentary evidence of his or her military service at the time of release from active duty, retirement, or discharge. It is important that information entered on the form be complete and accurate and reflects the conditions as they existed at the time of separation. Personnel officers will prepare and authenticate DD Form 214WS (Worksheet) prior to forwarding records to the transfer facility. All available records will be used as a basis for the preparation of DD Form 214WS, including DA Form 2-1 (Personnel Qualification Record) and orders.

//NOTHING FOLLOWS//