

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 August 2023

DOCKET NUMBER: AR20230001634

APPLICANT REQUESTS: correction of his record to show he was awarded the following awards:

- Combat Infantryman Badge (CIB)
- Purple Heart

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- PH Certificate
- Medical documents

FACTS:

1. The applicant did not file within the three-year time frame provided in Title 10, United States 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 that he was awarded the Purple Heart for being wounded in combat. He also received the CIB; however, it is not listed on his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 31 May 1968.

3. The applicant provides the following documents:

a. Purple Heart Certificate which reflects he received this award for wounds received in action on 13 January 1967 in the Republic of Vietnam.

b. Medical records reflects "fragment wound, right thigh, without nerve or artery injury. Incurred when hit by sniper fire while on patrol near Bong Son, RVN at 1230 hours, 13 Jan 67, treated, improved".

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

a. On 3 June 1966, he was inducted into the Army of the United States in the Regular Army.

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

- Item 22 (Military Occupational Specialties (MOS)): his primary MOS as 11B40 (Light Weapons Infantryman)
- Item 31 (Foreign Service): he served in Vietnam from 12 November 1966 through 10 November 1967
- Item 38 (Record of Assignments) reflects he was attached to the following units:
  - 15 November 1966 to 6 February 1967 – Company A, 1<sup>st</sup> Battalion, 14<sup>th</sup> Infantry, Vietnam
  - 7 February 1967 to 25 May 1967 – Patient
  - 26 May 1967 to 8 November 1967 – Company A, 1<sup>st</sup> Battalion, 14<sup>th</sup> Infantry, 25<sup>th</sup> Infantry Division
- Item 40 (Wounds): no wounds listed
- Item 41 (Awards and Decorations): does not reflect the awards for the CIB, or the PH

b. DD Form 214 shows he was honorably released from active duty and transferred to the U.S. Army Reserve on 31 May 1968. He completed 1 year, 11 months, and 28 days of net service this period with 11 months and 29 days of foreign service in U.S. Army Pacific (USARPAC). It also shows in:

- Item 23a (Specialty Number and Title): 11B40 (Light Weapons Infantryman)
- Item 24 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): does not reflect the PH or the CIB.

c. There is no evidence in the record and the applicant provides none (such as orders) that shows he was awarded the CIB or the PH.

4. He is authorized an additional award not listed on his DD Form 214, which will be administratively noted and corrected.

5. His name is shown on the Department of the Army Office of the Adjutant General Vietnam Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

6. A review of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any orders for the Purple Heart pertaining to the applicant.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that relief was warranted. Evidence of record shows that the applicant held the military occupational specialty (MOS) 11b specifically light weapon infantry and served in Vietnam for approximately one year; therefore the Board determined that he qualified for and should be award the Combat Infantry Badge.

2. The Board further determined the evidence presented sufficient to warrant the award of the Purple Heart. Evidence available for review, specifically a clinical record sheet, shows that the applicant received treatment for a fragment wound incurred when hit by sniper fire while the applicant was on patrol. Additionally, his name is reflected on the Vietnam Casualty Division Casualty Reference Name Listing.

3. After further review, the Board agreed that the applicant is eligible for an award not otherwise requested. Based on the documentation available for review, the Board found that as he received "excellent" conduct and efficiency ratings throughout his service and, in the absence of evidence that would otherwise make him ineligible, his record should be corrected show the award of the Army Good Conduct Medal.

4. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 the applicant's DD214 for the period ending 31 May 1968 to show in block 24 (Awards) the following:

- Combat Infantry Badge
- Purple Heart
- Army Good Conduct Medal

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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:

A review of the applicant's records shows he is authorized additional awards not listed on his DD Form 214. As a result, amend his DD Form 214 by amending:

a. Item 24 (Awards): adding the Republic of Vietnam Gallantry Cross with Palm Unit Citation.

b. Item 30 (Remarks): Adding Item 30 (Remarks): "Service in Vietnam: 12 November 1966 through 10 November 1967"

REFERENCES:

1. Title 10, United States 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 Army Board for Correction of Military Records (ABCMR) determines it would be in the interest of justice to do so.

2. Army Regulation 600-8-22 (Military Awards) states there are basically three requirements for award of the CIB. 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 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.

3. 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 in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army, who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received, under any of the following circumstances:

(1) In any action against an enemy of the United States.

(2) In any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged.

(3) 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.

(4) As the result of an act of any such enemy or opposing Armed Forces.

(5) As the result of an act of any hostile foreign force.

(6) After 7 December 1941, pursuant to Title 10, United States Code, section 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

(7) On or after 7 December 1941, to a member who is killed or dies while in captivity as a Prisoner of War under circumstances establishing eligibility for the Prisoner of War Medal, unless compelling evidence is presented that shows the member's death was not the result of enemy action.

b. To qualify for award of the Purple Heart the wound must have been of such severity that it required treatment, not merely examination, by a medical officer. A wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) Award may be made for a wound treated by a medical professional other than a medical officer provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

(3) 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 (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) 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 U.S. Navy.

- An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101.

c. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

- Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action
- Injury caused by enemy-placed trap or mine
- Injury caused by enemy-released chemical, biological, or nuclear agent
- Injury caused by vehicle or aircraft accident resulting from enemy fire
- Concussion injuries caused as a result of enemy-generated explosions
- Mild traumatic brain injury 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

d. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

- Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- Trench foot or immersion foot
- Heat stroke
- Food poisoning not caused by enemy agents
- Chemical, biological, or nuclear agents not released by the enemy
- Battle fatigue
- Disease not directly caused by enemy agents
- Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action
- Self-inflicted wounds, except when in the heat of battle and not involving gross negligence
- Post-traumatic stress disorders
- Airborne (for example, parachute/jump) injuries not caused by enemy action
- Hearing loss and tinnitus (for example: ringing in the ears)
- Mild traumatic brain injury 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
- Abrasions and lacerations (unless of a severity to be incapacitating)
- Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).

- First degree burns

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register), paragraph 6d, states that Department of the Army General Orders Number 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Army Vietnam, and its subordinate units for the period 20 July 1965 to 28 March 1973.

5. Army Regulation 15-185 (Army Board for Correction of Military Records) 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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//