

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 September 2023

DOCKET NUMBER: AR20230002134

APPLICANT REQUESTS: correction of his DD Form 214 (Report of Separation from the Armed Forces of the United States), for the period ending 8 April 1955, to add the Purple Heart (PH) and any service awards authorized for both World War I and the Korean War.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 8 April 1955
- Applicant Letter, 10 January 2023

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, he needs his DD Form 214 to reflect his service awards for both World War I and the Korean War. He served a total of 7 years, 6 months, and 29 days. He is 94 years old, and an Army Veteran. He has made several requests and he has finally received some of the medals, including the bronze star medal; however, he states that he also received the PH due to service during the Korean Conflict/War, and would like to receive this medal as well. In consideration for his age, he would appreciate if this request could be expedited.
3. The applicant's complete military records are not available to the Board for review. However, the available records show:
 - a. A Certification of Military Service provided by National Personnel Records Center (NPRC), shows the applicant was a member of the Regular Army from 23 October 1945 to 22 June 1948. He was honorably discharged.

b. A DD Form 214, which shows he entered active service on 30 November 1950. At the time of separation, he:

- was discharged on 16 February 1954, by reason of expiration of term of service
- he completed 3 years and 26 days of net service for the covered period, of which 1 year, 11 months, and 5 days was foreign service
- item 27 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) shows:
 - Bronze Star Medal with “V” device and one oak leaf cluster
 - Korean Service Medal with seven bronze service stars
 - Combat Infantryman Badge
 - United Nations Service Medal
 - National Defense Service Medal
- item 29 (Wounds Received as a Result of Action with Enemy Forces) shows he was wounded – mine fragments in chest and left hand on 12 September 1951 and “SFW” right thigh on 3 December 1952 – Jackson Heights, Korea.
- item 38 (Remarks) shows he had 53 days of lost time and was retained in service 26 days for the convenience of the government

c. Documents from the U.S. Army Surgeon General Office Hospitalization File Listing 1950-1953 (Korea) shows the applicant was treated in the hospital.

d. A subsequent DD Form 214 shows he reenlisted into active service on 17 February 1954, and he was discharged on 8 April 1955 by reason of the convenience of the government. He completed 1 year, 1 month, and 11 days of net active service during the covered period with over 6 years of prior active service, and total active service time for pay purposed 7 years, 6 months, and 29. It also shows:

- item 27 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): None
- item 38 (Remarks): 12 days of lost time

e. Special Orders Number 82, dated 8 April 1955, issued by Headquarters, 6023d SU Personnel Center, Fort Ord, California, shows the Army released the applicant from assignment and duty and he was given a general discharge. He was issued DD Form 214 and DD Form 257A (General Discharge Certificate).

f. Information from the hospital admission cards, created on 1 March 2023 by the Office of the Surgeon General, Department of the Army, shows the applicant was admitted to the hospital on 12 September 1951. He was treated for injuries caused as a

direct result of action against or by an organized enemy; fragment or explosion of other explosive munitions: land mine, struck while afoot.

g. By Army Regulation (AR) 600-8-22, (Military Awards) the criteria for award of the Purple Heart requires the submission of substantiating evidence to verify. The applicant's name does appear in the Korean Casualty List. He meets the criteria for this award in that:

- the injury or wound was the result of hostile action
- the injury or wound must have required treatment by a medical officer
- the medical treatment must have been made a matter of official record

4. On 20 October 2022, the ABCMR considered the applicant's request for correction of his DD Form 214 for the period ending on 8 April 1955, to reflect the service awards authorized for both World War I and the Korean War. The ABCMR determined that the applicant was issued a DD Form 214 covering the period of 30 November 1950 through 16 February 1954, which reflects his service and awards authorized for World War I and the Korean War. A copy of the DD Form 214 was provided to the applicant for his records. The applicant did not request award of the PH at that time.

5. By regulation, the criteria for an award of the Purple Heart requires the submission of substantiating evidence to verify:

- the injury/wound was the result of hostile action
- the injury/wound must have required treatment by personnel
- the medical treatment must have been made a matter of official record

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's contentions, his military records, and applicable regulatory guidance on the award of the Purple Heart. The Board found substantiating evidence to verify that the applicant was injured as result of hostile action and received treatment by medical personnel and agreed that regulatory guidance on the award for the Purple Heart had been met and relief was warranted.

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:

- awarding him the Purple Heart for a wounds received on 12 September 1951 in Jackson Heights, Korea
- adding the Purple Heart Medal to item 13 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) on his DD Form 214 with effective date adding the Purple Heart Medal to item 13 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) on his DD214 for the period ending 8 April 1955







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.

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. The Purple Heart was established by General George Washington at Newburgh, NY on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It was awarded in the name of the President of the United States to any member of the Armed Forces or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, died or sustained wounds as a result of hostile action. Effective 19 May 1998, award of the Purple Heart is limited to members of the Armed Forces of the United States.

3. Army Regulation 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations.

a. The Purple Heart is awarded to any member of an Armed Force of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, has been wounded or killed, or who has died or may hereafter die after, being wounded:

- in any action against an enemy of the United States
- in any action with an opposing armed force of a foreign country in which the Armed Forces of the U.S. are or have been engaged
- while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party
- as the result of an act of any such enemy of opposing Armed Forces
- as the result of an act of any hostile foreign force

b. Paragraph 2-8g. provides examples of enemy-related injuries which clearly justify award of the Purple Heart:

- 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.

c. Paragraph 2-8h provides examples of injuries or wounds which clearly do not justify award of the Purple Heart which includes:

- battle fatigue
- post-traumatic stress disorder
- 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

d. Paragraph 2-8i states it is not intended that such a strict interpretation of the requirement for the wound or injury to be caused by direct result of hostile action be taken that it would preclude the award being made to deserving personnel.

4. During World War II and the Korean War the Purple Heart was not awarded to Soldiers who had been injured while in captivity or while being taken captive. Those injuries were considered to be the result of war crimes and not the result of a legal action of war. War Department policy required that wounds must have been received in action against the enemy or, in other words, incurred in actual combat. Executive Order 11016, dated 25 April 1962, provided more latitude with respect to award of the Purple Heart to prisoners of war, as well as the authority to award the decoration to wounded Soldiers even in the absence of a formal declaration of war. The issue as to whether this change in policy would be implemented retroactively to prisoners of war from World War I, World War II, and the Korean War was considered several times. Initially it was decided that the change in policy would not be retroactively implemented. It was concluded it would be inappropriate for the Department of Defense to retroactively change the standards and, in effect, countermand the decisions of the past leadership. However, as part of the National Defense Authorization Act (NDAA) of 1996, Congress authorized award of the Purple Heart to any former prisoner of war who was wounded before 25 April 1962 while held as a prisoner of war, or while being taken captive, in the same manner as a former prisoner of war who was wounded on or after that date.

//NOTHING FOLLOWS//