

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 November 2023

DOCKET NUMBER: AR20230004350

APPLICANT REQUESTS: in effect, award him the Purple Heart for injuries incurred during the Vietnam War.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)
- News Article and photo
- Travel Authorization
- Photo of helicopter rotor

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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, he was the gunner for a Chinook CH 47 helicopter when, shortly after takeoff, the applicant heard the pilot say the helicopter was going down; a person to the applicant's left side said the helicopter was clear on the left, but the applicant saw that there were trees on the right, and he reported this to his fellow crew members.

a. Moments later, the helicopter crashed, and the only thing the applicant remembers is waking up and seeing everyone on the helicopter trying to exit on the left. The applicant observed Vietnamese militiamen trying to remove a gun from its turret; the applicant went up, helped them free the gun, and then tried to leave the aircraft, but he and another individual became pinned in the exit. The applicant backed up to allow the other person to leave, and he recalls seeing his life flash before his eyes; this was interrupted when the helicopter exploded. The applicant was able to leave the aircraft,

but he later learned he sustained burns to his left arm. The applicant and the other survivors returned to the landing zone and waited for the medical evacuation helicopter to arrive.

3. The applicant provides a news article with a handwritten date of 2 April 1969. The article states:

a. "A huge American helicopter smashed into a tree just after taking off from the U.S. base south of the Demilitarized Zone, killing 23 persons and injuring 53 in the worst copter crash in the Vietnam War."

b. "It was not immediately clear whether all of the men killed and wounded were aboard the helicopter, or whether some were on the ground when the twin engine helicopter snagged a tree, flipped over, and burned after lifting off from a U.S. Marine artillery base five miles from the Laotian border."

c. "The dead included 23 South Vietnamese militiamen, known as Popular Force troops, who were on a rice gathering detail, (as well as) one of the five American crewmen. Forty-nine other Popular Force Soldiers and four U.S. crewmen were injured."

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

a. On 25 October 1967, the applicant enlisted into the Regular Army for 3 years; upon completion of initial entry training and the award of military occupational specialty 67U (CH 47 Helicopter Repairman), orders transferred the applicant to Vietnam, and he arrived, on 22 May 1968.

b. Orders initially assigned the applicant to the 200th Assault Support Helicopter Company, but, effective 1 August 1968, he transferred to the 159th Assault Support Helicopter Battalion.

c. On 3 April 1969, medical authority noted the following on a Standard Form (SF) 600 (Health Record – Chronological Record of Medical Care):

(1) (Applicant) "burned left wrist yesterday in helicopter accident..." and the entry continued with a description of the treatment given.

(2) Between 4 and 6 April 1969, the applicant returned for follow-up treatment of his burns.

d. On 27 July 1970, the applicant completed his Vietnam tour, and orders reassigned him to Fort Lewis for separation processing. On 27 July 1970, the Army honorably released the applicant from active duty and transferred him to the U.S. Army

Reserve to complete his remaining military service obligation. His DD Form 214 shows he completed 2 years, 9 months, and 3 days of his 3-year enlistment contract, with 2 years, 2 months, and 7 days served in Vietnam. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) lists the following:

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Four overseas service bars
- Army Commendation Medal
- Air Medal
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)

e. The applicant's DA Form 20 (Enlisted Qualification Record) reflects the following additional information:

(1) Item 38 (Record of Assignments – Conduct – Efficiency) – The applicant earned "Excellent" ratings throughout his term of active duty service.

(2) Item 40 (Wounds) – None listed.

(3) Item 41 (Awards and Decorations) – National Defense Service Medal, Vietnam Service Medal, Air Medal, Army Commendation Medal, Republic of Vietnam Campaign Medal with Device (1960), two overseas service bars.

5. The Vietnam Casualty Roster is a listing of Vietnam-era casualties commonly used to verify the entitlement to the award of the Purple Heart. The applicant is not listed on this roster.

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, failed to reveal any General Orders, including for the Purple Heart, which pertained to the applicant.

7. During the applicant's era of service, AR 672-5-1 (Awards), prescribed policies and procedures for military awards; it stated the following:

a. The Purple Heart 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. Substantiating evidence had to be provided verifying that the wound resulted from

hostile action, the wound required treatment by medical personnel, and the medical treatment received had been made a matter of official record.

b. The Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940. For the first award only, commanders could award the Army Good Conduct Medal, upon termination of the Soldier's service on or after 27 June 1950, if he or she had served less than 3 years but more than 1 year. Additionally, the Soldier had to have had all "Excellent" conduct and efficiency ratings and no court-martial convictions.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that a portion of relief was warranted. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. Regulatory guidance regarding the award of the Purple Heart requires an applicant to provide or have as evidence of record substantiating evidence to verify that he was injured, 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. After due consideration of the request, the Board found the evidence presented insufficient to determine compliance with the regulatory standard for the Purple Heart and thus recommended denying the request.

2. Upon further review of the application, the Board noted that the applicant was 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, a correction to his record to show the award of the Army Good Conduct Medal is warranted.

3. 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:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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 Army records of the individual concerned be corrected to show the award of the Army Good Conduct Medal for exemplary service from 25 October 1967 - 27 July 1970.



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):

1. AR 635-5 (Separation Documents), in effect at the time, stated the DD Form 214 was to list all decorations, service medals, campaign credits, and badges awarded or authorized.
2. AR 600-8-22, currently in effect, states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States based on their qualifying service in Vietnam after 3 July 1965 through 28 March 1973. A bronze service star will be awarded for wear on the Vietnam Service Medal for the Soldier's participation in each recognized campaign; a silver service star was issued in lieu of five bronze service stars. Vietnam campaigns include the following:
 - Counteroffensive, Phase IV (2 April 1968 to 30 June 1968)

- Counteroffensive, Phase V (1 July 1968 to 1 November 1968)
- Counteroffensive, Phase VI (2 November 1968 to 22 February 1969)
- Tet 69/Counteroffensive (23 February 1969 to 8 June 1969)
- Summer-Fall 1969 (9 June 1969 to 31 October 1969)
- Winter-Spring (1970 (1 November 1969 to 30 April 1970)
- Sanctuary Counteroffensive (1 May 1970 to 30 June 1970)

3. Department of the Army Pamphlet (DA PAM) 672-3 (Unit Citation and Campaign Participation Credit Register) shows:

a. Department of the Army General Order (DAGO) Number 50, dated 1971, awarded the Valorous Unit Award to the 159th Aviation Battalion, for the period 22 to 23 July 1970.

b. DAGO Number 48, dated 1971, awarded the Republic of Vietnam Civil Actions Honor Medal, First Class, to the 159th Aviation Battalion, for the period 1 July 1968 to 2 May 1970.

d. DAGO Number 8, dated 1974, awarded all units that served in Vietnam the Republic of Vietnam Gallantry Cross with Palm Unit Citation.

4. Based on the foregoing, amend the applicant's DD Form 214, ending 27 July 1970, as follows: Delete the Vietnam Service Medal and add the following:

- Vietnam Service Medal with one silver service star and two bronze service stars
- Valorous Unit Award
- Republic of Vietnam Civil Actions Honor Medal, First Class Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

REFERENCES:

1. Title 10, USC, 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. AR 672-5-1 (Awards) prescribed policies and procedures for military awards. It stated the following:

a. The Purple Heart 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. Substantiating evidence had to be provided verifying that the wound resulted from hostile action, the wound required treatment by medical personnel, and the medical treatment received had been made a matter of official record.

b. The Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940. For the first award only, commanders could award the Army Good Conduct Medal, upon termination of the Soldier's service on or after 27 June 1950, if he or she had served less than 3 years but more than 1 year. Additionally, the Soldier had to have had all "Excellent" conduct and efficiency ratings and no court-martial convictions.

//NOTHING FOLLOWS//