

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 November 2023

DOCKET NUMBER: AR20230004825

APPLICANT REQUESTS: to be awarded the Purple Heart for injuries sustained while serving in the Republic of Vietnam.

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

- DD Form 149 (Application for Correction of Military Record)
- Medical documents
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 7 October 1979
- National Personnel Records Center letter, 15 August 2019
- U.S. Army Human Resources Command (AHRC) letter, 27 August 2019
- AHRC letter, 1 October 2019

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. 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 pertinent part that while he was hospitalized in Vietnam (1971), a service member asked if he wanted to be presented with his Purple Heart. He notes that he elected to receive the Purple Heart, but he never received it prior to being transferred to another hospital. Years later, he requested this award, however he was advised that there were no records reflective of him being authorized this medal. He further provides that while serving, he assisted with the movement of an entire company across a raging river in order to complete their mission. His commander advised him that for his actions he would have promoted him, however there was a freeze on promotions at that time. He notes that he may have been recommended for award of the Bronze Star Medal.

3. A review of the applicant's available service records reflects the following:

- a. On 20 February 1970, the applicant enlisted in the Regular Army to serve as an 11B (Infantryman) for 2 years.
- b. On 27 October 1970, the applicant reenlisted for 6 years.
- c. On or about 19 February 1971, the applicant deployed to the Republic of Vietnam.
- d. On or about 14 September 1971, the applicant departed the Republic of Vietnam.
- e. On 9 February 1974, the applicant was promoted to the rank/grade of staff sergeant (SSG)/E-6.
- f. On 8 October 1976, the applicant reenlisted for 3 years.
- g. On 7 October 1979, the applicant was honorably discharged from active duty. DD Form 214, item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) reflects:
  - Army Commendation Medal (w/ 2 oak leaf clusters)
  - National Defense Service Medal
  - Combat Infantryman Badge
  - Republic of Vietnam Campaign Medal
  - Army Good Conduct Medal (3rd Award)
  - Vietnam Service Medal
  - Republic of Vietnam Gallantry Cross (w/ Palm Unit Citation)
  - Expert Marksmanship Qualification Badge with Rifle Bar
- h. The applicant's name is not listed on the Vietnam Casualty Roster.

4. The applicant provides the following a:

- a. Medical documents reflective of medical care received by the applicant between August – October 1971. On or about 16 August 1971, the applicant developed pain in his left thumb. He noted the onset of this pain occurred while cutting bamboo in the jungle, possibly the result of a splinter. The applicant received treatment for this condition and was later transferred to another hospital for continued medical care. The applicant was diagnosed with cellulitis. In result, the applicant underwent varying medical treatment procedures to include a Percutaneous Transluminal Angioplasty (PTA). The applicant was later discharged and returned to duty.

b. National Personnel Records Center letter dated 15 August 2019, reflective of their response to the applicants request for entitlement or eligibility for award consideration. The applicant was redirected to AHRC.

c. AHRC letter date 27 August 2019, reflective of their acknowledged receipt of the applicant's submitted request.

d. AHRC letter dated 1 October 2019, reflective of their response to the applicant's submitted request wherein he was advised that they were unable to verify his entitlement to the Purple Heart. The applicant was advised that AHRC reviewed the available award orders from his period of service in the Republic of Vietnam but were unable to locate any orders authorizing award of the Purple Heart. Further, the applicant's name was not listed among the known casualties of the Vietnam conflict.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's contentions, the military record, and regulatory guidance. In accordance with applicable guidance, there must be substantiating evidence to verify that a Service member 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, Board determined the evidence presented did not meet the burden of proof in determining an error or injustice and a recommendation for relief is not warranted.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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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.

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. Army Regulation (AR) 672-5-1 (Decorations and Awards) in effect at that time provides that the Purple Heart may be awarded by the Commanding General of any separate force who is in the grade or position of a major general or higher or by any field grade officer to whom he may delegate authority. The Purple Heart was established by General George Washington at Newburgh, New York, on 7 August 1782 and revived by the President on 22 February 1932, is awarded to any member of the Armed Forces of the United States and to any civilian citizen of the United States serving with the Army who was wounded either in action against an armed enemy of the United States or as a direct result of an act of such enemy, provided the wound necessitated treatment by a medical officer. 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 during the period of hostilities or within 6 months thereafter

3. AR 600-8-22 (Military Awards) states 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.

a. Examples of enemy-related injuries which clearly justify 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 explosion

b. Examples of injuries or wounds which clearly do not justify the Purple Heart:

- Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- Trench foot or immersion foot, heat stroke, battle fatigue, first degree burns, and food poisoning not caused by enemy agents
- Chemical, biological, or nuclear agents not released by the enemy
- 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 Disorder
- Airborne (for example, parachute/jump) injuries not caused by enemy action
- Hearing loss and tinnitus (for example: ringing in the ears)
- 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)

4. AR 15-185 (ABCMR) paragraph 2-9 states 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//