



(1) The request for award of the PH for the applicant's injuries received while deployed in support of Operation Enduring Freedom is disapproved.

(2) After thorough review of the information provided, the forwarded recommendation for award of the PH does not meet the statutory guidance outlined in AR 600-8-22, paragraph 2-8g.c "To qualify for award of the PH the wound must have been of such severity that it required treatment, not merely examination, by a medical officer." Post-deployment medical documentation and/or diagnoses cannot be utilized to satisfy this requirement; AHRC could not conclusively link a 2014 diagnosis to the specific incident in question. As such, they could not approve issuance of the PH for this event.

(3) AHRC informed the applicant he could apply to the Board if he believed the determination to be unjust.

b. Medical records, from 6 January 2023 through 11 April 2023, which show the applicant has been seen for neck and upper back pain, degenerative changes, disc/osteophyte complex, bulges, mod/severe foraminal stenosis. The documents are available for the Board's consideration.

4. The applicant's service records contain the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States), dated 29 May 2002, shows the applicant enlisted in the U.S. Army Reserve (USAR) delayed entry program (DEP) for a period of 8 years. On 19 June 2002, he was discharged from the USAR DEP and entered active duty for a period of 4 years.

b. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant was honorably released for completion of required active service on 18 June 2006. He had completed 4 years of service.

c. Orders RI-292-0226, published by Installation Management Command, U.S. Army Element, dated 19 October 2011, deployed the applicant in a Temporary Change of Station status with a will proceed on or about date of 5 December 2011 for a period of 365 days.

d. Permanent Orders 041-005, published by Task Force Spartan, Headquarters, 4th Brigade Combat Team (Airborne), 25th Infantry Division, dated 10 February 2012 awarded the applicant the Combat Infantryman Badge for being engaged by or engaging the enemy on 28 December 2011.

e. DD Forms 4 show the applicant reenlisted in the Army on 16 May 2012 for a period of 4 years and on 16 February 2015 for an indefinite period.

f. The applicant's enlisted record brief, dated 18 November 2022, shows he was deployed to Afghanistan from 5 December 2011 through 30 September 2012.

g. Orders 0006943069.00, published by Department of the Army, dated 8 January 2024 transfer the applicant to the Retired List effective 1 September 2024.

h. The applicant's service record is void of, and the applicant did not provide, documentation showing he was injured by the enemy.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.

2. The Board found no evidence showing the applicant was wounded as a result of hostile action to a degree that required treatment by a medical officer at the time of the injury. Based on a preponderance of the evidence, the Board determined the applicant is not entitled to the Purple Heart.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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.

5/6/2024

X [REDACTED]

---

CHAIRPERSON  
[REDACTED]

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. 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 mTBI 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.

f. The following nonexclusive list provides examples of signs, symptoms or medical conditions documented by a medical officer or medical professional that meet the standard for the Purple Heart:

- (1) Diagnosis of concussion or mild TBI;
- (2) Any period of loss or a decreased level of consciousness;
- (3) Any loss of memory of events immediately before or after the injury;
- (4) Neurological deficits (weakness, loss of balance, change in vision, praxis (that is, difficulty with coordinating movements), headaches, nausea, difficulty with understanding or expressing words, sensitivity to light, etc.) that may or may not be transient; and
- (5) Intracranial lesion (positive CT or magnetic resonance imagining (MRI) scan).

g. The following nonexclusive list provides examples of medical treatment for concussion that meet the standard of treatment necessary for award of the Purple Heart:

- (1) Limitation of duty following the incident (limited duty, quarters, etc);
- (2) Pain medication, such as acetaminophen, aspirin, ibuprofen, etc., to treat the injury;

(3) Referral to a neurologist or neuropsychologist to treat the injury; and

(4) Rehabilitation (such as occupational therapy, physical therapy, etc.) to treat the injury.

h. Combat theater and unit command policies mandating rest periods or downtime following incidents do not constitute qualifying treatment for concussion injuries. To qualify as medical treatment, a medical officer or medical professional must have directed the rest period for the individual after diagnosis of an injury.

4. AR 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//