

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 January 2024

DOCKET NUMBER: AR20230005585

APPLICANT REQUESTS: entitlement to award of the Purple Heart and correction of his DD Form 214.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 1380 (U.S. Field Medical Card)
- Standard Form 600 (Chronological Record of Medical Care)

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 that he is requesting to be awarded the Purple Heart.
3. The applicant provides:
 - a. A DD Form 1380, dated 18 May 1970, that shows the while in the line of duty, the applicant was treated for "minor cuts to (R) shoulder." Item 32 (Remarks) states "eligible for Purple Heart."
 - b. A Standard Form 600, dated 18 May 1970, that states that while "flying during a resupply mission (UH-1H) received intense fire and received minor cuts to [right] shoulder... debris... incident occurred at 1130 hours... Cuts cleaned and dressed; eligible for purple heart."
4. The applicant's records contain sufficient evidence to support additional awards not shown on his DD Form 214 for the period ending on 6 September 1970 and will be listed in the administrative notes. The Board will consider his request for award of the Purple Heart.

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

a. He enlisted in the Delayed Entry Program (DEP) of the United States Army Reserve on 7 December 1967 for a term of 6 years. He entered active duty on 5 February 1968.

b. He was honorably discharged from active duty on 12 January 1969. His DD Form 214 shows he completed 11 months and 8 days of active service.

c. A memorandum issued by Headquarters, US Army Aviation School Element, Hunter Army Airfield, dated 13 January 1969, appointed him a Reserve Warrant Officer of the Army.

d. DA Form 66 (Officer Qualification Record) shows:

(1) The applicant was assigned as a Helicopter Pilot in Company A, 123rd Aviation Battalion while in the Republic of Vietnam from 12 February 1969 until 1 September 1970.

(2) Item 17 (Foreign Service) – service in Vietnam from 5 February 1969 to 5 September 1970.

(3) Item 21 (Awards and Decorations) lists the applicant was awarded:

- National Defense Service Medal
- Republic of Vietnam Campaign Medal with Device 1960
- Vietnam Service Medal
- Army Commendation Medal
- Bronze Star Medal
- Army Aviator Badge
- Air Medal
- 3 Overseas Service Bars

e. He was honorably released from active duty on 6 September 1970. His DD Form 214 shows he completed 1 year, 7 months and 23 days of active service during this period. Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) shows that he was awarded the following:

- National Defense Service Medal
- Vietnam Campaign Medal
- Vietnam Service Medal

- Army Commendation Medal
- Bronze Star Medal
- Army Aviator Badge
- Air Medal with 25 Oak Leaf Clusters

6. The applicant's record does not contain orders for the Purple Heart.

7. His name is not shown on the Department of the Army Office of the Adjutant General 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.

8. Regulatory guidance provides that there are three basic criteria for award of the Purple Heart: The Soldier must have been wounded as a result of hostile enemy action; the wound must have required treatment by medical officer; and the medical treatment must have been made a matter of official record.

9. By regulation, AR 635-5 (Separation Documents), states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board determined that relief was warranted. Regulatory guidance provides that 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. Documentation available for review reflects that the applicant was wounded in action and denotes that he was eligible for the Purple Heart. After due consideration of the evidence presented, the Board determined the evidence presented sufficient to warrant a recommendation for relief.

2. 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 Army records of the individual concerned be corrected by amending the applicant's DD Form 214 for the period ending 6 September 1970 by awarding and adding the Purple Heart for injuries incurred in Vietnam on 18 May 70.

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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(S): The applicant's service records contain evidence substantiating the following administrative corrections to the applicant's DD Form 214 without Board action:

- a. delete the Vietnam Service Medal, Vietnam Campaign Medal, and Air Medal with 25 Oak Leaf Clusters; and
- b. add the following awards:
 - Air Medal with Numeral 25

- Vietnam Service Medal with three bronze service stars
- Republic of Vietnam Campaign Medal with Device (1960)
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14)
- Marksman Marksmanship Qualification Badge with Pistol Bar (.45 Cal)

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 15-185 (ABCMR) 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, which is that what the Army did was correct.
3. By regulation (AR 635-5), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.
4. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:
 - a. Department of the Army General Orders 42, dated 1972, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation for service in Vietnam to the 123d Aviation Battalion.
 - b. A bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the following 3 campaigns:
 - Vietnam Winter-Spring 1970, 1 November 1969 – 30 April 1970
 - DA Sanctuary Counteroffensive Phase II, 1 May 1970 – 30 June 1970
 - Vietnam Counteroffensive Phase VII, 1 July 1970 – 30 June 1971
5. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It provides that the Purple Heart is awarded for a wound sustained in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify the wound was the result of hostile action, the wound must have required treatment by a medical officer, and the medical treatment must have been made a matter of official record.

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

(1) Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.

(2) Injury caused by enemy-placed trap or mine.

(3) Injury caused by enemy-released chemical, biological, or nuclear agent.

(4) Injury caused by vehicle or aircraft accident resulting from enemy fire.

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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.

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

(1) Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951).

(2) Trench foot or immersion foot.

(3) Heat stroke.

(4) Food poisoning not caused by enemy agents.

(5) Chemical, biological, or nuclear agents not released by the enemy.

(6) Battle fatigue.

(7) Disease not directly caused by enemy agents.

(8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.

(9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.

- (10) Post traumatic stress disorders.
- (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example: ringing in the ears).
- (13) 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.
- (14) Abrasions and lacerations (unless of a severity to be incapacitating).
- (15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- (16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- (17) First degree burns.

//NOTHING FOLLOWS//