

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 March 2024

DOCKET NUMBER: AR20230005646

APPLICANT REQUESTS: reconsideration of his previous request to be awarded the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Congressional Correspondence
- Previous Application, Statements, and Record of Proceedings
- General Orders 2526, Army Commendation Medal, 28 September 1969
- General Orders 2024, Bronze Star Medal, 14 August 1969
- Award of the Indiana Distinguished Services Cross
- April 2022 Department of Veterans Affairs Rating Decision
- Consent to Release Personal Information
- Multiple Letters from the National Personnel Records Center

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20190002769 on 27 September 2019.

2. The applicant states he did not turn in a shrapnel injury from combat in Vietnam due to high operational tempo. He has previously submitted statements and letters from members of his unit who were witnesses to enemy action. On 28 April 1969, his team was inserted into their area of operation by way of UH-1 Helicopter. Their mission was to conduct area reconnaissance for enemy activity, in mostly thick elephant grass and undergrowth terrain. During the mission, his radio man went down with heat exhaustion. They were able to revive him by pouring canteens of water on him. He contacted fixed wing aircraft for extraction. When they returned to the landing zone, they observed and made contact with a small enemy force. When he was crawling to the radio to call for support, he was wounded by shrapnel from an enemy grenade. With the help of gunships, they were able to suppress the enemy and be extracted. He treated the wound himself because he didn't consider it to be bad enough to go to the medic. He has a scar on his left arm three inches long.

3. The applicant's service record is not available for review. An exhaustive search was conducted to locate the record, but it could not be found. However, the service records in the applicant's previous case and the records provided by the applicant, are sufficient for the Board to conduct a fair and impartial review of his case.

4. Review of the applicant's available service records shows:

a. He enlisted in the [REDACTED] Army National Guard ([REDACTED] ARNG) on 29 June 1966. He entered active duty for training from 1 August to 5 December 1966 and completed training for award of military occupational specialty 11F, Infantry Operations and Intelligence Specialist.

b. He also completed the Basic Airborne Course from 16 June to 1 July 1967 and Jungle Warfare from 2 to 7 March 1968. He was ordered to and entered active duty on 13 May 1968. He also completed Ranger training from 3 July to 29 August 1968.

c. He served in Vietnam from on or about 17 December 1968 to on or about 1 September 1969, assigned to Company D (Rangers), 151st Infantry. [Note: His DA Form 20 (Enlisted Qualification Record) is not available for review.]

d. Headquarters, II Field Force, Vietnam, General Orders Number 2024, dated 14 August 1969, awarded him the Bronze Star Medal with V Device. The citation reads:

He distinguished himself by heroism in connection with military operations against a hostile force on 28 April 1969 while serving as leader of a reconnaissance team with Company D (Rangers), 151st Infantry in the Republic of Vietnam. On this date, while on a long-range reconnaissance operation, his team stopped a set up a temporary perimeter to give the radio telephone operator a chance to recover from heat exhaustion. Suddenly the team observed two enemy soldiers coming out of a nearby wood line and initiated contact with them. As the friendly element began to receive intense automatic weapons fire, [Applicant] moved into an exposed position to secure the team's radio and call in helicopter gunship support. Disregarding the enemy fusillade, he placed accurate suppressive fire on the hostile troops and directed the team's return fire until the gunships arrived and began rocket assaults. He then led his small force to a landing zone for extraction.

e. Headquarters, II Field Force, Vietnam, General Orders Number 2526, dated 28 September 1969 awarded him the Army Commendation Medal with V Device. The citation reads:

He distinguished himself by heroism in connection with military operations against a hostile force on 6 June 1969 while serving as assistant patrol leader

of a reconnaissance team with Company D (Rangers), 151st Infantry in the Republic of Vietnam. On this date while deployed in an ambush position, his heavy reconnaissance patrol spotted a small group of enemy soldiers approaching. When the hostile element stopped outside the patrol's firing zones, [Applicant] calmly directed his comrades to hold their fire. A few moments later the small enemy force again began moving toward the concealed friendly troops. As the hostile elements entered the firing zone, he led his fellow soldiers in placing accurate fire on the enemy. The well-executed ambush resulted in the killing of all five of the hostile force.

f. He was honorably released from active duty and returned to the control of the State ARNG. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows he completed 1 year, 3 months, and 20 days of active service. He was awarded or authorized:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- Combat Infantryman Badge
- Bronze Star Medal
- Parachute Badge

g. He was honorably discharged from the ■ ARNG on 15 December 1969. His NGB Form 22 (Report of Separation and Record of Service) shows he completed 3 years, 5 months, and 17 days of ARNG service.

4. Nothing in several typical sources show he was injured or wounded as a result of hostile action or that he was awarded the Purple Heart:

a. There are no orders for award of the Purple Heart. Additionally, neither of his two awards for heroism mention he was wounded or injured during his heroic acts.

b. His DA Form 20 (Enlisted Qualification Record) is not available for review. Item 40 (Wounds) of the DA Form 20 would record any wounds sustained as a result of hostile action.

c. His available personnel records do not contain an official Army message or a Western Union telegram notifying his next of kin of an injury or wound sustained in action. This was generally the proper notification procedure for injuries at the time.

d. His name is not shown on the Vietnam casualty listing. This is a listing of Vietnam era casualties commonly used to verify entitlement to award of the Purple Heart.

e. 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 orders for the Purple Heart pertaining to the applicant.

f. His complete medical records are not available for review with this case and no contemporaneous medical records exist to support an injury (as a result of hostile action) or treatment for such injury.

6. On 27 September 2019, the Board considered his request for award of the Purple Heart and denied it.

a. The Board carefully considered the applicant's request, supporting documents, evidence in the records and published DoD guidance for consideration of discharge upgrade requests. The Board considered the applicant's statement, his record of service to include service in Vietnam, the statements from fellow Soldiers, the absence of in-service or post-service records showing an injury and the absence of his name on the Department of the Army Vietnam Casualty Roster. The Board found insufficient evidence to show that the applicant had been in a manner that meets the criteria for award of a Purple Heart. Based on a preponderance of evidence, the Board determined that the absence of a Purple Heart in his records was not in error or unjust.

b. After reviewing the application and all supporting documents, the Board found that relief was not warranted.

7. By regulation (AR 600-8-22), 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

8. Although the Bronze Star Medal with V Device and Army Commendation Medal with V Device are not listed on his DD Form 214, in the absence of his service records:

- It is unclear if he was issued a DD Form 215 (Correction to DD Form 214) to record these awards
- If no DD Form 215 was issued, it is unclear if the Bronze Star Medal listed on his DD Form 214 is the same award for heroism (albeit the V Device was inadvertently omitted) or if it was a separate award for service or achievement

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board recognizes the applicant was awarded the Bronze Star w/ V Device and the Army Commendation Medal w/ V Device and was engaged in direct enemy fire on two separate occasions. However, the Board determined there is no medical record showing the applicant injures to his arm as stated by the applicant were caused by enemy forces that required him to receive treatment by medical personnel. Although the applicant engaged in hostile enemy fire, there must be proof the applicant was seen by medical personnel at the time of the incident to meet the criteria for award of the purple heart.
2. Furthermore, the burden of proof rest on the applicant and he provided no evidence that was sufficient to support his claim for reconsideration awarding him the Purple Heart. The Board found there was insufficient evidence that showed the applicant's name on the casualty listing or notification to his family that he had been wounded. There is no medical record showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. Based on regulatory guidance, the Board found reversal of the previous Board determination is without merit. However, during deliberation of the applicant's record, the Board found the applicant's service record did not reflect he was awarded the Army Good Conduct Medal (1st award) and his record shows he received "excellent" conduct and efficiency ratings throughout his service for the period of 13 May 1968 to 2 September 1969. Based on this the Board granted partial relief for correction of the applicant's record to show award of the Army Good Conduct Medal.
3. Per the regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his service records 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.
4. 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:

1. In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding him the Army Good Conduct Medal (1st Award) for exemplary service from 13 May 1968 to 2 September 1969 and adding the medal to his DD Form 214 for the period ending 2 September 1969.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to reconsideration of the applicant's previous request to be awarded the Purple Heart.

3/25/2024

X █

CHAIRPERSON

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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 NOTES:

A review of the applicant's records shows he is authorized additional awards not annotated on his DD Form 214 for the period ending 2 September 1969. As a result, amend his DD Form 214 by adding:

- Army Commendation Medal w/ V Device

Delete – Bronze Star Medal

Add- Bronze Star Medal w/ V Device

- Vietnam Counteroffensive Phase VI
- TeT 69 Counteroffensive 69
- Vietnam Summer – Fall 69
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

Delete- Vietnam Service Medal

Add – Vietnam Service Medal w/ 3 bronze stars

REFERENCES:

1. Army Regulation 15-185 (Army Board for Correction of Military Records) 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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

2. Army Regulation (AR) 600-8-22 (Military Awards), prescribes policies and procedures for military awards and decorations, to include the Purple Heart.

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 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. When contemplating an award of this decoration, 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 the award.

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

- 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

3. Army Regulation 600-200 (Enlisted Personnel Management System), chapter 9, of the version in effect at the time, stated a brief description of wounds or injuries (including injury from gas) requiring medical treatment received through hostile or enemy action, including those requiring hospitalization would be entered in item 40 (wounds) of the DA Form 20. This regulation further stated that the date the wound or injury occurred would also be placed in item 40.

//NOTHING FOLLOWS//