

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 January 2024

DOCKET NUMBER: AR20230006203

APPLICANT REQUESTS: correction of DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) for the period ending on 14 July 1970 to reflect award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, 14 July 1970

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 his DD Form 214 is incorrect as it does not reflect his receipt of the Purple Heart. He contests that while serving in the Republic of Vietnam, serving with the 4th Infantry Division, he sustained injuries to his leg during a bombing incident which resulted in him being awarded the Purple Heart.

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

a. On 15 July 1968, the applicant enlisted in the Regular Army for 2 years to serve as an 11B (Light Weapons Infantryman).

b. On or about 18 December 1968, the applicant was reassigned to the Republic of Vietnam and further assigned to:

- 299th Engineer Battalion
- B Company, 4th Infantry Division

c. On or about 17 December 1969, the applicant departed the Republic of Vietnam and was further assigned to Fort Belvoir, Virginia, with duty as an instructor.

d. DA Form 20 (Enlisted Qualification Record), item 40 (Wounds) is void of an entry.

e. On 9 July 1970, the U.S. Army Engineer Center and Fort Belvoir issued Special Orders Number 159 relieving the applicant from active-duty, effective 14 July 1970.

f. DD Form 214 shows the applicant was honorably released from active duty and transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training). Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) reflects the following:

- Army Good Conduct Medal
- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal with 1960 Device
- Expert Marksmanship Qualification Badge with Rifle Bar

g. On 19 June 1974, the USAR Components Personnel and Administration Center issued Letter Orders Number 06-1227384 honorably discharging the applicant from the USAR Control Group (Standby), effective 1 July 1974.

4. A review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the Awards and Decorations Branch of the U.S. Army Human Resources Command, failed to reveal any orders for the Purple Heart. The applicant's 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. The applicant's 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 a typical notification procedure for injuries at the time.

BOARD DISCUSSION:

1. 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. A Vietnam casualty roster did not reflect the applicant's name and his record did not reveal any supporting documentation. 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 applicant's request, the Board determined the evidence presented insufficient to warrant a recommendation for relief.

2. Prior to closing the case, the Board did note the analyst of record administrative notes below referencing corrections to the applicant's DD214 which will 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. 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.

2. Prior to closing the case, the board noted the administrative notes below and recommended those changes be completed to more accurately reflect the military service of the applicant.

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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):

1. Reference the enclosed request for correction of military records, correct the applicant's DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) for the period ending on 14 July 1970 by:

- a. Deleting the Vietnam Service Medal.
- b. Adding:
 - Vietnam Service Medal with 4 bronze service stars
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - 2 Overseas Bars

2. The following documents are sufficient to justify correction of the DD Form 214 without action by the Board.

- DD Form 214
- DA Form 20 (Enlisted Qualification Record)
- Department of the Army General Orders Number 8, dated 1974
- Army Regulation 600-8-22 (Military Awards)

3. Correct the applicant's DD Form 214 to add/delete the awards shown in paragraph 1a and b above. Provide the applicant with a copy of the corrections and the medals and citations, as applicable. Please record the correction in the applicant's official military personnel record.

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 medical 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//