

IN THE CASE OF: ██████████

BOARD DATE: 4 January 2024

DOCKET NUMBER: AR20230006235

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the Purple Heart (PH).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:  
DD Form 149 (Application for Correction of Military Record).

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 he was injured by an incoming round as he was diving into a foxhole, and he has shrapnel in his right leg.
3. The applicant's record shows:
  - a. He enlisted in the Regular Army on 16 April 1969.
  - b. His DA Form 20 (Enlisted Qualification Record) contains the following information:
    - Item 31 (Foreign Service) shows service in the U.S. Army Pacific - Vietnam (USARPAC) from 2 January 1970 to 10 August 1971 and U.S. Army Europe – Germany (USAREUR) from 20 September 1971 to 5 April 1972
    - Item 38 (Record of Assignments) shows he was assigned to the following units while on active duty:
      - 9 January 1970 to 17 August 1970, Headquarters and Main Support Company, 5th Maintenance Battalion, USARPAC
      - 18 August 1970 to 23 March 1971, 552nd Maintenance Company, USARPAC

- 24 March 1971 to 6 August 1971, 160th Maintenance Company, USARPAC
- 24 September 1971 to 13 January 1972, Company D, 122d Maintenance Battalion, USAREUR
  
- Item 40 (Wounds): None
- Item 41 (Awards and Decorations): does not list the PH

c. He was honorably released from active duty and transferred to the U.S. Army Reserve on 17 January 1972. His DD Form 214 shows he completed 2 years, 9 months, and 2 days of active service. It shows in:

- Item 22c (Foreign and/or Sea Service): 1 year, 11 months, and 6 days
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
  - National Defense Service Medal
  - Good Conduct Medal
  - 3 overseas service bars
  - Vietnam Service Medal
  - Vietnam Campaign Medal
  - Marksman Marksmanship Badge (M-14)
  
- Item 30 (Remarks): service in the Republic of Vietnam from 2 January 1970 to 10 August 1971

4. There are no documents or orders in the applicant's record that indicate he was recommended for or awarded the PH.

5. A review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders issued during the Vietnam era maintained by the U.S. Army Human Resources Command, failed to reveal any orders that show the applicant was awarded the PH.

6. The applicant's name is not shown on the Department of the Army Office of the Adjutant General Casualty Division Casualty Reference Name Listing for the period 16 April 1969 to 17 January 1972, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

7. Army Regulation 600-8-22 contains the regulatory guidance pertaining to entitlement to the PH and requires all elements of the award criteria to be met. There must be proof a wound was incurred as a result of enemy action, that the wound required treatment by

medical personnel, and that the medical personnel made such treatment a matter of official record.

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.
2. The Board found no evidence confirming the applicant's claim that he was wounded as a result of hostile action during his service in Vietnam. In the absence of documentation confirming he met the criteria for entitlement to the Purple Heart, the Board determined the evidence does not support awarding him this medal at this time.
3. The Board concurred with the corrections described in Administrative Note(s) below.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Other than the corrections addressed in Administrative Note(s) below, 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 otherwise insufficient as a basis for correction of the records of the individual concerned.

3/20/2024

X

CHAIRPERSON

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): A review of the applicant's records show he is authorized additional awards not listed on his DD Form 214. As a result, his DD Form 214 should be amended by adding:

- 4 bronze service stars to the Vietnam Service Medal
- Meritorious Unit Commendation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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.

(1) 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.

(2) 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.

(3) 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 mTBI 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.

(4) Examples of injuries or wounds that clearly do not justify award of the Purple Heart include post-traumatic stress disorders, hearing loss and tinnitus, mTBI 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.

b. The Vietnam Service Medal was awarded to all service members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. Qualifying service included attachment to or assignment for 1 or more days with an organization participating in or directly supporting military operations. One bronze service star is authorized with the Vietnam Service Medal for each campaign during which a member was assigned or attached to and present for duty with a unit during the period in which it participated in combat or was under orders in the combat zone and served at a normal post of duty. One silver service star is worn to denote five bronze service stars. The applicant participated in four campaigns during his service in Vietnam.

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. This

pamphlet shows Headquarters & Main Support Company, 5th Maintenance, was cited for the following unit award: Department of the Army General Order (DAGO) Number 48, dated 1971, the Meritorious Unit Commendation for the period 1 January 1969 to 31 May 1970.

4. DAGO Number 8, dated 1974, awarded Headquarters, United States Military Assistance Command and its subordinate units, the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 8 February 1962 to 28 March 1973.

//NOTHING FOLLOWS//