

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 January 2024

DOCKET NUMBER: AR20230006255

APPLICANT REQUESTS: reconsideration of his entitlement to award of the Purple Heart (PH) and correction of his DD Form 214 (Report of Separation from Active Duty) to show this award.

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

- DD Form 149 (Application for Correction of Military Record), 23 March 2023
- Self-authored Statement, 19 March 2023
- DA Form 4036 (Medical and Dental Record), 27 March 1974
- DA Form 600 (Medical Record), 12 December 1974
- DA Form 20, page 3 only
- DD Form 214, 12 December 1974
- DD Form 215 (Correction to DD Form 214), 1 December 1987
- letter, Joint Chiefs of Staff, 13 August 1987
- letter, National Archives and Records Administration, 22 December 2005
- Statement by SJS____, 18 February 2006
- DD Form 215, 3 May 2006
- Puerto Rico Army National Guard (PRARNG) Commendation, 31 July 2006
- Affidavit, RAS____, 2 October 2006
- Statement by RMC____, 27 October 2006
- PRARNG Orders, 5 June 2007
- letter, GB, 8 October 2007
- letter, Veterans Administration (VA), 26 April 2011
- Medical Opinion, Dr. GJS, MD, Veterans Administration, 2 Dec 2020
- VA Rating Decision, 8 May 2021
- VES Addendum, 1 June 2021
- ABCMR decision, page 3 only 21 March 2022

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 Dockets Number AR20200004687 on 21 March 2022.

2. The applicant has provided new arguments and new evidence which warrants Board consideration at this time. The applicant provided copies of:

a. A medical record, dated 27 March 1974, previously considered by the Board.

b. A semi legible SF 600, showing on 12 December 1974, an entry for complaints of ringing in both ears and pain in the right knee from a mortar contusion by friendly fire on the DMZ in Korea during the previous July. Patient stated his ears had been ringing since then with hand tremors. The rest of this document is illegible.

c. A DA Form 20, DD Form 214 dated 1 December 1975; DD Forms 215 dated 1 December 1986 and 3 May 2006; a letter from the Joint Chiefs of Staff, dated 13 August 1987; previously considered by the Board.

d. Two documents issued to him by the PRARNG showing a commendation was given to him.

e. Written statements by RAS___, RMC___, and GB___, outlining actions his company was involved with as a rapid deployment force, taken while he participated in missions in the Republic of Korea, which also supported his request for the Combat Infantryman Badge.

f. A VA letter, 26 April 2011, showing he was receiving 100% disability benefits.

g. A VA medical opinion showing he had a diagnosis of a knee impairment with a scar that was as least as likely as not incurred in or caused by a mortar attack during service.

h. A VA Rating decision, dated 8 May 2021, showing he was receiving service-connected disability benefits, in part, for tinnitus.

i. An attributed published news story discussing a change in Army policy allowing entitlement for the PH due to a perforated eardrum condition.

j. ABCMR decision AR20200004687, page 3 only, 21 March 2022.

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

a. On 18 December 1972, he enlisted in the Regular Army for a period of 3 years. His DA Form 20 shows he:

- was awarded military occupational specialty 11B (Light Weapons Infantryman)

- served in Korea from 2 May 1974 to 1 May 1975
- was assigned to Company B, 1st Battalion, 9th Infantry, 2d Infantry Division
- was awarded or authorized the National Defense Service medal and the Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M16)

c. On 1 December 1975, he was honorably released from active duty. His DD Form 214 shows he completed 2 years, 12 months, and 18 days of net active service this period. He was awarded or authorized:

- National Defense Service Medal
- Marksman Marksmanship Qualification Badge with Rifle Bar (M16)

d. His records are void of evidence showing treatment for a combat-related wound as a result of hostile action during his service in Korea.

e. A DD Form 215 was issued to him on 29 July 1988, awarding him the Armed Forces Expeditionary Medal (Korea) and the Air Assault Badge.

f. A second DD Form 215 was issued to him on 3 May 2006 awarding him the Korea Defense Service Medal.

4. In ABCMR Docket Number AR20200004687, dated 19 April 2021, the Board denied his request for the PH, finding no evidence to grant the requested relief. This most recent docket erroneously noted a request for the PH in earlier docket number AC 86-08867, dated 22 June 1988, however his requests for awards did not include a request for the PH.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends that while stationed at the DMZ, he sustained to his right knee from mortar shrapnel during combat operations against North Korean forces in 1974. To be awarded the Purple Heart, the regulatory guidance 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. There is no record in his service record of an injury as a result of enemy action and there is no contemporaneous medical documentation for his contended injury submitted with the application or found in the record. The applicant did not provide evidence that satisfies the criteria for award of the Purple Heart and therefore the Board determined there is insufficient documentation to warrant awarding it to him.

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 to amend the decision of the ABCMR set forth in Docket Number AR20200004687 on 21 March 2022.

█

█ █

█
█

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. 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 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//