

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 February 2024

DOCKET NUMBER: AR20230006415

APPLICANT REQUESTS: award of the Purple Heart for a wound to his right arm on 11 June 1970 while serving in the Republic of Vietnam.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 7 April 1971
- Headquarters, 1st Cavalry Division (Airmobile), General Orders Number 11573, 30 June 1970
- DA Form 20 (Enlisted Qualification Record) (page 4 only)

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 should have been awarded the Purple Heart. He suffered a flesh wound in his right arm on 11 June 1970 while serving in the Republic of Vietnam. He was offered the Purple Heart at the time; however, he turned it down. Looking back now, he regrets that decision.

3. He was inducted into the Army of the United States on 8 April 1969. He held an infantry military occupational specialty.

4. His DA Form 20 (Enlisted Qualification Record) shows in:

a. item 31 (Foreign Service), overseas tour credit for service in Vietnam from 9 September 1969 through 8 September 1970;

b. item 38 (Record of Assignments), he was assigned to the following units and locations during his service in Vietnam, within the 1st Cavalry Division (Airmobile)

- 15 September 1969 to 5 November 1969 – rifleman – Company A, 1st Battalion, 5th Cavalry
- 6 November 1969 to 30 December 1969 – automatic rifleman – Company A, 1st Battalion, 5th Cavalry
- 31 December 1969 to 30 May 1970 – assistant machine gunner – Company A, 1st Battalion, 5th Cavalry
- 31 May 1970 to 3 September 1970 – machine gunner – Company A, 1st Battalion, 5th Cavalry

c. item 40 (Wounds), he sustained a flesh wound – right arm, 11 June 1970;

e. item 41 (Awards and Decoration), the following awards:

- National Defense Service Medal
- Vietnam Service Medal
- Combat Infantryman Badge
- Air Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- two overseas service bars
- Bronze Star Medal with "V" Device
- Army Commendation Medal
- Army Good Conduct Medal (1st Award)

5. His name appears on the Vietnam casualty listing showing a battle casualty on 11 June 1970.

6. His medical records are not available for review.

7. General Orders Number 573, issued by Headquarters, 1st Cavalry Division on 30 June 1970 awarded him the Bronze Star Medal with V Device for heroism in connection with ground operations against a hostile force in Vietnam. He distinguished himself by valorous action on 12 June 1970 when his unit was engaged with a determined enemy force, with complete disregard to his own safety, he exposed himself to the intense hostile fire as he moved forward to the point of heaviest contact and began placing a heavy volume -of suppressive fire upon the insurgent forces

8. He was honorably released from active duty on 7 April 1971. He completed 2 years of net active service during this period, including 1 year of foreign service in U.S. Army Pacific. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and

Campaign Ribbons Awarded or Authorized) of his DD Form 214 lists the following awards:

- National Defense Service Medal
- two overseas service bars
- Army Good Conduct Medal (1st Award)
- Air Medal
- Army Commendation Medal
- Bronze Star Medal with "V" Device
- Combat Infantryman Badge (1st Award)
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-14)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Vietnam Service Medal with two bronze service stars
- Republic of Vietnam Campaign Medal with Device (1960)

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was warranted. The applicant's contentions, his military records, and regulatory guidance were carefully considered. The evidence of record shows the applicant suffered a flesh wound to his right arm, as a result of hostile action, in Vietnam on 11 June 1970, as evidenced by the entry on his DA Form 20 and the listing of his injury on the Vietnam casualty roster. Although the medical records that confirms his injury required treatment, is not available for review, the Board did not question how more or less serious a wound or injury appeared, and determined that being wounded in combat -- by any degree -- entitled the applicant to award of the Purple Heart.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

In addition to the corrections addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- awarding him the Purple Heart for wounds received in action on 12 June 1970 in the Republic of Vietnam
- adding award of the Purple Heart to his DD Form 214

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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 is authorized administrative correction of his DD Form 214 to show the following awards without Board action:

- four bronze service stars with his Vietnam Service Medal
- Valorous Unit Award
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal First Class 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 600-200 (Enlisted Personnel Management System), 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 of the DA Form 20. The date the wound or injury occurred would also be entered in item 40.

3. 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 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. The Purple Heart differs from all other decorations in that an individual is not "recommended" for the decoration; rather, he or she is entitled to it upon meeting specific criteria. When contemplating eligibility for the Purple Heart, the two critical factors commanders must consider is the degree to which the enemy or hostile force caused the wound and whether the wound was so severe that it required treatment by a medical officer.

(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 below. 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) The key issue commanders must take into consideration when contemplating an award of this decoration 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 sole justification for award.

(3) Examples of enemy-related injuries which 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

b. The Vietnam Service Medal is awarded to all service members of the Armed Forces of the United States serving in Vietnam and its contiguous waters or airspace there over after 3 July 1965 through 28 March 1973. A bronze service star is awarded for wear on the Vietnam Service Medal for participation in each credited campaign. During the applicant's service in Vietnam, credit was awarded for the following campaigns:

- Vietnam Summer-Fall 1969 – 9 June 1969-31 October 1969
- Vietnam Winter-Spring 1970 – 1 November 1969-30 April 1970
- Sanctuary Counteroffensive – 1 May 1970-30 June 1970
- Vietnam Counteroffensive Phase VIII – 1 July 1970-30 June 1971

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam. This pamphlet shows the 1st Battalion, 5th Cavalry Regiment, was cited for award of the:

- Valorous Unit Award for the period 1 May 1970 to 29 June 1970, confirmed in Department of the Army General Orders Number 43, 29 November 1972
- Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period May 1969 to February 1970, confirmed in Department of the Army General Orders Number 11, 23 April 1973
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation for the period 1 January 1969 to 1 February 1970, confirmed in Department of the Army General Orders Number 42, 11 August 1970

5. 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

is a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

//NOTHING FOLLOWS//