

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 August 2024

DOCKET NUMBER: AR20230006416

APPLICANT REQUESTS: correction of the deceased former service member's (SM) WD AGO Form 53-98 (Military Record and Report of Separation – Certificate of Service) to show award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Two Letters from the Army Review Boards Agency
- Certification of Birth (Daughter)
- Letter from the Department of Veterans Affairs (VA) (Undated)
- Special Orders 226, Third Service Command, Woodrow Wilson General Hospital, Staunton, VA
- Officer Pay, Allowance and Milage Voucher
- VA Rating Letter
- News Article (Source Unknown)
- WD AGO Form 100 (Army Separation Qualification Record)
- WD AGO Form 53-98
- Certificate of Service
- Certificate from the President of the United States of America

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 the SM recovered from an injury during World War II (WWII) that the Army has now listed as a prerequisite for the Purple Heart. The SM is deceased and his daughter is requesting issuance of the Purple Heart.

3. A review of the SM's record indicates additional awards awarded or authorized and will be added administratively without Board action. The Board will consider award of the Purple Heart.

4. The SM's military records are not available to the Board for review. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center in 1973. It is believed the SM's records were lost or destroyed in that fire. However, there were sufficient documents remaining in a reconstructed record for the Board to conduct a fair and impartial review of this case.

5. The SM's WD AGO Form 53-98 shows he was inducted into the Army of the United States and entered active duty on 24 December 1942, and he attained the rank/grade of First Lieutenant/O-2. He completed 2 years, 4 months, and 13 days of service in the continental United States and 5 months and 27 days of foreign service. He was honorably discharged on 3 November 1945. His WD AGO Form 53-98 contains the following information and block entries:

a. He was assigned to Battery B, 662nd Field Artillery Battalion and he participated in the Rhineland, Central Europe, and Pearl Harbor campaigns.

b. block 29 (Decorations and Citations) - shows he was awarded the European–African–Middle Eastern Campaign Medal with 2 bronze service stars and the Asiatic Pacific Campaign Ribbon with 1 bronze service star.

c. block 30 (Wounds Received in Action) - None

d. His Service Outside the Continental United States is listed as:

Date of Departure	Destination	Date of Arrival
26 May 1940	Hawaii	17 June 1940
12 September 1942	United States	17 September 1942
18 December 1944	United Kingdom	27 December 1944
26 February 1945	France	27 February 1945
18 March 1945	Germany	20 March 1945
14 April 1945	France	14 April 1945
14 June 1945	United States	14 June 1945

e. block 43 (Remarks) lists the Army Service Ribbon, Army Service Lapel Button, and the Honorable Discharge Emblem.

6. The applicant provides:

a. An undated news article states word was received from the War Department that the FSM was slightly wounded in Germany on 15 April, he was with the heavy field artillery attached to Patton's Third Army.

b. Special Orders 226, issued by the Third Service Command, Woodrow Wilson General Hospital (WWGH), Staunton, VA, on 18 September 1945, states the FSM was granted leave for a period of 1 month and 14 days. He was released/released from observation and treatment and attached unassign to the Patient detachment, WWGH Staunton, VA, for record purposes. On 20 September 1945, he was assigned to Separation Point WWGH Staunton, VA, for record purposes only. On 30 November 1945, he would revert to inactive status not by reason of physical disability.

c. Certificate of Service, dated 3 November 1945, showing the FSM honorably completed active Federal service in the Army of the United States from December 1942 to 3 November 1945, with Battery 662d Field Artillery Battalion, in the rank of First Lieutenant.

d. VA Rating Letter, dated 22 March 1950, showing a non-compensable evaluation was assigned to him for his service-connected disability was confirmed and continued. His disabilities include ruptured ear drums, right ear scar, right knee scar, skin condition of the shoulder and burns of face and neck – 0%. He was advised he had 1 year within the date of this letter to appeal to the VA concerning this decision.

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 record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board determined 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. The evidence of record shows the applicant served from 24 December 1942 to 3 November 1945, including service in France and Germany; however, there is no record of any wounds received. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of the Purple Heart.

2. Prior to closing the discussion, the Board noted and concurred with the administrative notes listed below.

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 for correction of the records of the individual concerned.

10/28/2024

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 NOTES: correct block 29 (Decorations and Citations) of his WD AGO Form 53-98 to add the following awards:

- World War II Victory Medal
- American Campaign Medal
- American Defense Service Medal with "Foreign Service" Clasp
- Army of Occupation Medal with "Germany" Clasp

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 Department of the Army (DA) policy, criteria, and procedures for individual and unit military awards and foreign decorations and badges.

a. Paragraph 2-7 (Purple Heart) states the Purple Heart, while clearly an individual decoration, differs from all other decorations in that an individual is not recommended for the decoration; rather, they are entitled to it upon meeting specific criteria. Each approved award of the Purple Heart must exhibit all the following factors: (1) Wound, injury, or death must have been the result of enemy or hostile act, international terrorist at-tack, or friendly fire; (2) The wound or injury must have required treatment by medical official; and (3) The records of medical treatment must have been made a matter of official Army records. Appendix C, paragraph C-3 (Purple Heart) states, when contemplating eligibility for the PH, the two critical factors commanders must consider are 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) Some examples of enemy-related actions that justify eligibility for the PH are as follows:

- injury caused by enemy bullet, shrapnel, or other projectile created by enemy action
- (injury caused by enemy emplaced trap, mine, or other improvised explosive device
- injury caused by chemical, biological, or nuclear agent released by the enemy
- injury caused by vehicle or aircraft accident resulting from enemy fire
- smoke inhalation injuries from enemy actions that result in burns to the respiratory tract
- perforated eardrum caused by enemy action (two critical factors to consider are 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)

- Concussions or mTBI caused as a result of enemy-generated explosions that result in either loss of consciousness or restriction from full duty due to persistent signs, symptoms, or clinical finding or i-paired brain function for a period greater than 48 hours from the time of the concussive incident

(2) Some examples of injuries that do not justify eligibility for the Purple Heart are as follows:

- Frostbite, excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951
- trench foot or immersion foot
- heat stroke
- food poisoning not caused by enemy agents
- exposure to chemical, biological, or nuclear agents not directly released by the enemy
- battle fatigue, neuropsychosis, and post-traumatic stress disorders
- 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
- first-degree burns
- Airborne (for example, parachute or jump) injuries not caused by enemy action
- hearing loss and tinnitus (for example, ringing in the ears)
- mTBI that does not 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
- abrasions or lacerations, unless of a severity requiring treatment by a medical officer
- bruises or contusions, 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)

b. Paragraph 2–29 (World War II Victory Medal) states the World War II Victory Medal was established by an Act of Congress on 6 July 1945 (59 Stat 461). It is awarded for service between 7 December 1941 and 31 December 1946, both dates inclusive.

c. Paragraph 2–32 (American Campaign Medal) states the American Campaign Medal is awarded for service within the American Theater between 7 December 1941 and 2 March 1946 under any of the following conditions: (1) On permanent assignment outside the continental limits of the United States; (2) Permanently assigned as a member of a crew of a vessel sailing ocean waters for a period of 30 consecutive days or 60 nonconsecutive days; (3) Outside the continental limits of the United States in a passenger status or on TDY for 30 consecutive days or 60 nonconsecutive days; (4) In active combat against the enemy and was awarded a combat decoration or furnished a certificate by the CG of a corps, higher unit, or independent force that the Soldier actually participated in combat; and/or (5) Within the continental limits of the United States for an aggregate period of 1 year.

d. Paragraph 2–34 (American Defense Service Medal) states, the American Defense Service Medal was awarded for service between 8 September 1939 and 7 December 1941 under orders to active duty for a period of 12 months or longer. A clasp, with the inscription “Foreign Service,” is worn on the American Defense Service Medal to denote service outside the continental limits of the United States, including service in Alaska, as a member of a crew of a vessel sailing ocean waters, flights over ocean waters, or as an assigned member of an organization stationed outside the continental limits of the United States. Possession of a clasp is de-noted by the wearing of a bronze service star on the service ribbon (see chap 6 for descriptions of the clasp and service stars).

e. Paragraph 5-8 (Army of Occupation Medal) states the Army of Occupation Medal is awarded for service for 30 consecutive days at a normal post of duty (as contrasted to inspector, visitor, courier, escort, passenger, TDY, or detached service) while assigned to the Army of Occupation of Germany (exclusive of Berlin) between 9 May 1945 and 5 May 1955. Service between 9 May and 8 November 1945 will be counted only if the European-African-Middle Eastern Campaign Medal was awarded for service before 9 May 1945.

3. Department of the Army Pamphlet 672-1 (Unit Citation and Campaign Participation Credit Register) shows the 662nd Fiend Artillery Battalion received credit for the Occupation of Germany for the period 2 May 1945 to 30 October 1945.

//NOTHING FOLLOWS//