

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 February 2024

DOCKET NUMBER: AR20230006442

APPLICANT REQUESTS: reconsideration of his previous request for correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) 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)
- IVC-100, Department of Veterans Affairs (VA) Eligibility of Benefits Form

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 Docket Number AR20150008659 on 12 April 2016.

2. The applicant states he is requesting addition of the Purple Heart to his DD Form 214. He was wounded by a grenade while in Vietnam and his medical records confirm he received treatment by military medical personnel the day after the injury. His service treatment record (STR) did not become available to him until after he filed a claim with the VA that contained evidence of treatment in Vietnam for the wound received due to a grenade.

3. The applicant provides IVC-100, dated 15 July 1970, which indicates he was filing a claim for Veteran's benefits due to an injury received from a grenade on 11 April 1970. He further notes he was hospitalized from 12 April 1970 through 11 June 1970 due to a fracture which resulted in about 15% loss of extension of his right arm. His arm had not regained the normal strength.

4. A review of the applicant's service record shows:

- a. He was inducted into the Army of the United States on 17 June 1968.
- b. He served in Vietnam from 1 July 1969 to 20 April 1970. His DA Form 20 (Enlisted Qualification Record) shows in:

- item 35 (Record of Assignments):
 - 12 April 1970, Patient, Medical Holding Company (MHC), 249th General Hospital, U.S. Army Pacific (USARPAC)
 - 19 April 1970, Casual, Enroute to Continental U.S.
 - 20 April 1970, Patient, Medical Holding Detachment, U.S. Army Medical Department, Naval Hospital, Great Lakes, IL
- item 40 (Wounds): no entry
- item 41 (Awards and Decorations): National Defense Service Medal, Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14), Vietnam Service Medal, Republic of Vietnam Campaign Medal with Device 1960

c. The service record contains two DA Forms 3082-R (Statement of Medical Condition – When Examined More than 3 Days Prior to Separation) from the Great Lakes Naval Hospital both dated 9 June 1970. The applicant noted his medical condition had changed and he could not properly bend the right arm hit in Vietnam.

d. He was honorably released from active duty on 10 June 1970. His DD Form 214 shows he completed 2 years of active service. It also shows in:

- Block 11c (Reason and Authority) – Completion of Hospitalization
- Block 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): National Defense Service Medal, Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14), Vietnam Service Medal, Vietnam Commendation Medal, Expert Marksmanship Qualification Badge with Rifle Bar (M-16)
- Block 30 (Remarks) – Vietnam Service 1 July 1969 – 20 April 1970

e. His name is not shown on the Vietnam casualty roster, a compilation of most of those who were wounded in Vietnam, which is used to verify eligibility for the Purple Heart.

f. A review of the Awards and Decorations Computer Assisted Retrieval System maintained by the U.S. Army Human Resources Command, which is an index of general orders issued during the Vietnam era between 1965 and 1973, failed to reveal any orders for the Purple Heart pertaining to the applicant.

5. A review of the applicant's record confirms he is eligible for awards that are not recorded on his DD Form 214. These awards will be added to his DD Form 214 as administrative corrections and will not be considered by the Board.

6. On 12 April 2016, the ABCMR rendered a decision in Docket Number AR20150008659. The Board noted the applicant’s records show he was a patient and received medical treatment for an unspecified condition incurred during his service in Vietnam; however, his name did not appear on the Vietnam casualty roster and item 40 of his DA Form 20 is blank. There was no evidence of record confirming his wounds were the result of hostile action. For that reason, the Board determined the applicant's injury did not meet the criteria for award of the Purple Heart.

7. By regulation, the Purple Heart is awarded for a wound/injury 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 medical personnel
- the medical treatment must have been made a matter of official record

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant’s contentions, the military record, and regulatory guidance were carefully considered. Although the applicant provides sufficient evidence to show he was wounded while in Vietnam, the Board concluded that the available evidence fails to show that the applicant’s wound was as a result of hostile action against an armed enemy.

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:

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.

5/14/2024

X [REDACTED]

CHAIRPERSON
[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:

A review of the applicant's service records show he is authorized additional awards not annotated on his DD Form 214 for the service period ending 10 June 1970. As a result, correct his DD Form 214 to show:

- Valorous Unit Award
- Republic of Vietnam Campaign Medal with Device (1960)
- Republic of Vietnam Gallantry Cross Unit Citation with Palm
- two bronze service stars with his previously-awarded Vietnam Service Medal

REFERENCES:

1. Army Regulation 600-8-22 (Military Awards) provides Army policy, criteria, and administrative instructions concerning individual military decorations.

a. A bronze service star is authorized to denote participation in each designated campaign.

b. The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, has been wounded or killed, or who has died or may hereafter die after, being wounded:

- In any action against an enemy of the United States
- In any action with an opposing armed force of a foreign country in which the Armed Forces of the U.S. are or have been engaged
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party.
- As the result of an act of any such enemy of opposing Armed Forces
- As the result of an act of any hostile foreign force

2. The Purple Heart was established by General George Washington at Newburgh, NY on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It was awarded in the name of the President of the United States to any member of the Armed Forces or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. Armed Services after 5 April 1917, died or sustained wounds as a result of hostile action. Effective 19 May 1998, award of the Purple Heart is limited to members of the Armed Forces of the United States.

3. Department of the Army Pamphlet 672-3 (Unit Citations and campaign Participation Credit Register) assist commanders and personnel officers in determining or establishing the eligibility of individual members for campaign participation credit, assault landing credit, and unit citation badges awarded during the Vietnam Conflict. Department of the Army General Order Number 43, dated 1972, awarded Headquarters and Headquarters Company, 196th Infantry Brigade the Valorous Unit Award for service in Vietnam from 11-31 August 1969.

4. Department of the Army General Order Number 42, dated 1972, awarded Headquarters and Headquarters Company, 196th Infantry Brigade the Republic of

Vietnam Gallantry Cross Unit Citation with Palm for service in Vietnam from 24 August 1969 to 31 December 1969 and 31 March 1970 to 30 June 1970.

//NOTHING FOLLOWS//