

IN THE CASE OF: ██████████

BOARD DATE: 31 January 2024

DOCKET NUMBER: AR20230006984

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)
- DD Form 214, 30 October 1969

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, in effect, his unit was awarded the PH while serving in combat in the Republic of Vietnam.
3. His record indicates he was awarded or authorized additional awards that are not shown on his DD Form 214 and will be listed in the administrative notes.
4. A review of the applicant's service records show:
  - a. He enlisted in the Regular Army on 31 October 1967.
  - b. DA Form 20 (Enlisted Qualification Record) shows in:
    - Item 22 (Military Occupational Specialties) - Light Weapons Infantryman
    - Item 31 (Foreign Service) – 19 April 1968 to 12 April 1969 - U.S. Army Pacific - Vietnam (USARPAC)
    - Item 38 (Record of Assignments): he was assigned to Company C and Company E, 3rd Battalion, 60th Infantry, 9th Infantry Division in Vietnam.
    - Item 40 (Wounds): None

- Item 41 (Awards and Decorations): does not list the award of the PH.

c. He was honorably released from active duty and transferred to the U.S. Army Reserve on 30 October 1969. His DD Form 214 shows he completed 2 years of net active service for the covered period. It shows in:

- Item 22c (Foreign and/or Sea Service): Vietnam, 11 months and 24 days
- Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized):
  - National Defense Service Medal
  - Republic of Vietnam Campaign Medal with Device (1960)
  - Vietnam Service Medal
  - Combat Infantryman Badge
  - Republic of Vietnam Gallantry Cross with Palm Unit Citation
  - Marksmanship Qualification Badge with rifle bar (M-16)
  - Marksmanship Qualification Badge with rifle bar (M-14)
  - Marksmanship Badge with Machine Gun Bar (M-60)

5. There are no documents or orders in the applicant's record that indicate he was recommended for or awarded the PH. His name does not appear on the Vietnam casualty roster as sustaining an injury, as a result of hostile action.

6. 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.

7. Army Regulation 600-8-22 (Military Awards) 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 that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence to show the applicant met the

criteria for award of the Purple Heart. The Board noted the applicant's record is absent any documentation that indicate he was recommended for or awarded the PH. In addition, the Board determined the applicant's name does not appear on the Vietnam casualty roster as sustaining an injury, as a result of hostile action.

2. However, during deliberation, the Board determined the applicant's service record did not reflect he was awarded the Army Good Conduct Medal (1st Award) and his record shows he received "excellent" conduct and efficiency ratings throughout his service for the period of 31 October 1967 to 30 October 1969. Based on this the Board granted relief for correction of the applicant's record to show award of the Army Good Conduct Medal.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction be completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding him the Army Good Conduct Medal (1st Award) for exemplary service from 31 October 1967 to 30 October 1969 and adding the medal to his DD Form 214 for the period ending 30 October 1969.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to award of the Purple Heart.

2/6/2024

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 for the period ending 30 October 1969, and he is authorized an amendment to item 30 as listed below. As a result, amend his DD Form 214 by:

- a. Delete the Vietnam Service Medal
- b. Add:
  - Vietnam Service Medal with four bronze service stars
  - Republic of Vietnam Civil Actions Honor Medal
  - Air Medal
  - Army Commendation Medal
  - 2 overseas service bars
- c. Add to item 30: Vietnam Service – 19 April 1968 to 12 April 1969

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. 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 3rd Battalion, 60th Infantry was cited for the following unit award: Department of the Army General Order (DAGO) Number 59, dated 1969, the Republic of Vietnam Civil Actions Honor Medal for the period 19 December 1966 to 28 June 1969.

4. AR 600-8-22 states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States based on their qualifying service in Vietnam after 3 July 1965 through 28 March 1973; a bronze service star will be awarded for wear on the Vietnam Service Medal for the Soldier's participation in each recognized campaign, including:

- Vietnam Counteroffensive Phase IV (2 April 1968 -30 June 1968)
- Vietnam Counteroffensive Phase V (1 July 1968 -1 November 1968)
- Vietnam Counteroffensive Phase VI (2 November 1968 -22 February 1969)
- Tet 69 Counteroffensive 1969 (23 February 1969 -8 June 1969)

//NOTHING FOLLOWS//