

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 February 2024

DOCKET NUMBER: AR20230007376

APPLICANT REQUESTS: award of the Purple Heart.

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)
- U.S. Naval Service Form 755 (Records Transmittal), 2 November 1968
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 8 July 1969
- Standard Form 89 (Report of Medical History), 10 June 1969
- [REDACTED] Clinical Indication, 7 November 2018

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 because he was injured in combat by shrapnel from a grenade while serving along the demilitarized zone in Vietnam at Fire Support Base Alpha-4, Con Thien. He was evacuated to the Quảng Trị Combat Base and then to the U.S.S. Repose. He still has shrapnel in his body. He states the incident happened on or about 1 November 1968.
3. He was inducted into the Army of the United States on 20 September 1967.
4. His DA Form 20 (Enlisted Qualification Record) shows in:
 - a. item 31 (Foreign Service), overseas tour credit for service in Vietnam from 25 July 1968 through 15 December 1968;
 - b. item 38 (Record of Assignments), he was assigned to the following units/locations:

- 27 July 1968 to 30 November 1968 – machine gunner– Headquarters and Headquarters Company (HHC), 1st Battalion, 61st Infantry Regiment, U.S. Army Pacific, Vietnam
 - 1 December 1968 to 14 December 1968 – grenadier – HHC, 1st Battalion, 61st Infantry Regiment, 1st Infantry Brigade, 5th Infantry Division (Mechanized), U.S. Army Pacific, Vietnam
- c. item 38, exclusively "Excellent" conduct and efficiency ratings;
- d. item 40 (Wounds), no wounds or injuries;
- e. item 41 (Awards and Decoration), the following awards:
- National Defense Service Medal
 - Vietnam Service Medal
 - Combat Infantryman Badge
5. Headquarters, 1st Infantry Brigade, 5th Infantry Division (Mechanized), Special Orders Number 120, 30 October 1968, awarded him the Combat Infantryman Badge.
6. The U.S. Naval Service Form 755, 2 November 1968, shows he was on board the U.S.S. Repose for consultation and notes his health record was abandoned and his presence was unknown.
7. His Standard Form 89 (Report of Medical History), 10 June 1969, shows he underwent a medical examination for the purpose of separation and noted in:
- item 31 (Have you had, or have you been advised to have any operations?) – removal of shrapnel
 - item 34 (Have you consulted or been treated by clinics, physicians, healers, or other practitioners within the past 5 years?) – HHC, 1st Battalion, 61st Infantry Regiment, 1st Infantry Brigade, 5th Infantry Division (Mechanized), Dr. ██████████
 - item 39 (Physician's Summary and Elaboration of All Pertinent Data) – the examining physician noted there was no sequelae (pathological condition resulting from a disease, injury, therapy, or other trauma) to the applicant except occasional sharp pain in his left inguinal (groin) area from a shrapnel wound
8. His name does not appear on the Vietnam Casualty Listing and his records are void of orders awarding him the Purple Heart.
9. His records contain no evidence of a court-martial conviction or any other derogatory information that would disqualify him from the first award of the Army Good Conduct

Medal. His records contain no evidence indicating his commander disqualified him for award of the Army Good Conduct Medal.

10. He was honorably released from active duty on 31 July 1985. He completed 1 year, 9 months, and 19 days of net active service during this period, including 5 month and 2 days of foreign service in U.S. Army Pacific.

a. 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
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)

b. Item 30 (Remarks) of his DD Form 214 does not contain an entry documenting his Vietnam service.

11. He provides an Intercoastal Medical Group, Incorporated, Clinical Indication, showing he underwent magnetic resonance imaging screening for a metallic foreign body on 7 November 2018. The doctor found a tiny metallic foreign body or clip in his left inguinal region, measuring approximately 0.3 centimeters in diameter.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.
2. The Board found a preponderance of the evidence confirms the applicant was wounded as a result of hostile action and that his wound required treatment by a medical officer. The Board determined the applicant should be awarded the Purple Heart and the award should be added to his DD Form 214.
3. The Board found the applicant met the criteria for the Army Good Conduct Medal (1st Award). The Board determined he should be awarded this medal and it should be added to his DD Form 214.
4. The Board concurred with the corrections described in Administrative Note(s) below.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 a wound incurred as a result of hostile action on 1 November 1968
- Awarding him the Army Good Conduct Medal (1st Award) for the period 20 September 1967 through 8 July 1969
- Adding to his DD Form 214 the Purple Heart and Army Good Conduct Medal (1st Award)
- Making the corrections described in Administrative Note(s) below

6/3/2024

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): The applicant is authorized administrative correction of his DD Form 214 to show the following entries without Board action:

- item 24 –
 - Vietnam Service Medal with two bronze service stars
 - Republic of Vietnam Campaign Medal with Device (1960)
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Combat Infantryman Badge
- item 30 – "Vietnam – 25 Jul 68 through 15 Dec 68, Indochina – Yes, Korea – No."

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 Counteroffensive Phase V – 1 July 1968-1 November 1968
- Vietnam Counteroffensive Phase VI – 2 November 1968-22 February 1969

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, 61st Infantry Regiment, was cited for award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 26 August 1968 to

2 November 1968 confirmed in Department of the Army General Orders Number 43, 12 August 1970.

5. Army Regulation 672-5-1 (Awards), in effect at the time, stated the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for the first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "Excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in permanent orders.

6. Army Regulation 635-5 (Separation Documents), in effect at the time, governed preparation of the DD Form 214 and stated to indicate Indochina and Korea service performed on or after 5 August 1964 in item 30 of the DD Form 214 by entering inclusive dates of service for Vietnam and indicating "Yes" or "No" for service in Indochina and Korea. To show Vietnam service only, for example, enter "Vietnam – 25 Apr 70 through 28 May 71, Indochina – Yes, Korea – No."

7. 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//