

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 April 2024

DOCKET NUMBER: AR20230007753

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)
- A personal statement
- Eight pages of service medical records
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Department of Veterans Affairs (VA) rating decision

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 sustained an injury to his hearing during a mortar attack and the firing of a 155-millimeter gun in 1967, and he was hospitalized at Quy Nhon and then in Japan. His first sergeant told him he was going to be awarded the Purple Heart, but he did not follow-up on the award.
3. The applicant's Official Military Personnel File is currently not available due to being processed for digital storage. The case is being processed based on the limited evidence provided by the applicant.
4. The service medical records provided show treatment for several conditions including bilateral hearing loss. He was afforded two physical profiles for first H-1 and later H-2 hearing loss. Treatment records for ear problems and tinnitus between 30 May 1967 and 2 January 1986.
5. The DD Form 214 provided shows the following:
 - Separation in the rank and grade of master sergeant/E-8

- Entry onto active duty this period - 12 April 1977
- Separation from active duty this period - 28 February 1990
- Net active service this period - 12 years, 10 months, and 17 days
- Prior active service -13 years, 2 months, and 22 days
- His characterization of service is honorable
- The block for the authority for separation blacked out
- The narrative reason for separation is length of service
- His awards are listed as the:
 - Meritorious Service Medal National Defense Service Medal
 - Army Commendation Medal (second award)
 - Vietnam Service Medal
 - Army Achievement Medal
 - Good Conduct Medal (7th award)
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Armed Forces Expeditionary Medal
 - Army Service Ribbon
 - Overseas Service Ribbon
 - NCO Development Ribbon with Numeral 2
 - Driver and Mechanic Badge
 - Marksman Qualification Badge with Rifle Bar
 - Retirement Lapel Button

6. The available records do not include a copy of the DA Form 20 (Enlisted Qualification Record) or any clarifying assignment information.

7. The VA has granted the applicant disability ratings for 17 conditions including bilateral hearing loss and tinnitus. He is currently rated at a 100 percent level.

8. In determining whether to grant relief the Boards for Correction of Military/Navy Records (BCM/NR) can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the

Board determined the medical documentation provided is insufficient and found no medical record showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. The burden of proof rest on the applicant and the evidence provided by the applicant does not meet the criteria to support his claim for award of the Purple Heart. The Board agreed there was insufficient evidence that showed the applicant’s name on the casualty listing or notification to his family that he had been wounded. There is no medical record showing the applicant received wounds caused by enemy forces that required treatment by medical personnel.

2. The Board noted, per regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his service records substantiating evidence to verify that he was injured, 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. The Board determined the applicant did not meet the criteria for award of the purple heart and denied relief.

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

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.

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) states 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.

//NOTHING FOLLOWS//