

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 March 2024

DOCKET NUMBER: AR20230007871

APPLICANT REQUESTS:

- reconsideration of his earlier request for the award of the Purple Heart
- permission to appear personally before the Board, via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)
- Two letters of support

FACTS:

1. Incorporated herein by reference are military records, as were summarized in the previous considerations of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Numbers AR20090004671, on 11 August 2009, and AR20160001279, on 3 November 2016.

2. The applicant states, in effect, he had anger issues and doctors later diagnosed him with post-traumatic stress disorder (PTSD).

a. While in Vietnam, the applicant believes he ended up not being on good terms with his captain after he told him what he (the captain) could do with awards. In retrospect, he now feels he should have received the Purple Heart for a punji stake injury he incurred during combat; the punji stake went through the mid-part of his thigh during a night ambush. The applicant states he would now like to receive the award, for his grandchildren's sake.

b. In support of his request, the applicant provides two letters of support from retired sergeants major, respectively dated 1 April 2003 and 8 September 2003.

(1) Sergeant Major (SGM), Retired (R) J__ C. C__ states he served with the applicant in Vietnam.

(a) The applicant was one of his platoon leaders when they were assigned to the 5th Mobile Strike Force Command. In January or February 1969, their unit received orders to conduct a combat air assault; they were to secure a firebase for American artillery. As they made the assault and landed on a hill, they discovered the Viet Cong had covered the hill with punji stakes. SGM (R) C__ explains that punji stakes were lengths of bamboo with a sharpened end and often covered with human feces. The enemy would place them in the ground at 45-degree angles and, because they were extremely sharp, they penetrated boots and trousers and could cause severe infections.

(b) The applicant stepped on one of the punji stakes and it penetrated his trousers into the left leg. Special Forces medics treated the applicant at the time and they had him evacuated to the closest treatment facility. SGM (R) C__ no longer remembers the location of that treatment facility, but he knows the applicant returned to duty the next day; the applicant felt a strong sense of duty to his fellow Soldiers. For some reason, the command never awarded the applicant the Purple Heart.

(2) SGM (R) W__ N. H__ states he was assigned to Special Forces Detachment B-55 during the early part of 1969, and he was attached to a mobile strike force company within the 5th Mobile Strike Force Command.

(a) SGM (R) H__'s unit was involved in an air assault mission to secure a firebase; the landing zone was on the top of a hill that, as evidenced by the number of punji stake pits, had been previously occupied by Viet Cong. The enemy effectively camouflaged the punji stakes so that they blended in with the grass and foliage.

(b) The applicant sustained a wound to his lower left leg from one of the punji stakes, and they evacuated him to the medical facility at Đông Ba Thien. The applicant rejoined the unit the next day, and he continued to receive minor treatment for the remainder of the mission. SGM (R) H__ cannot recall if the incident was ever noted in the applicant's medical records, but he is sure they medically evacuated the applicant with a field medical tag.

3. The applicant does not provide any documentation to support his claim of a service-connected PTSD diagnosis.

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

a. On 15 November 1966, the applicant enlisted into the Regular Army for 3 years. Between November 1966 and December 1967, he completed initial entry, airborne, Special Forces, and communications training, and, on 12 December 1967, the Army

awarded him military occupational specialty 05B (Radio Operator). Orders subsequently assigned him to the 6th Special Forces Group at Fort Bragg, NC (later renamed Fort Liberty); he arrived at his new unit, on 5 January 1968.

b. In or around July/August 1968, the applicant received reassignment instructions for Vietnam; on 23 September 1968, he arrived in Vietnam and, effective 27 September 1968, orders further assigned him to Detachment B-55, 5th Special Forces Group (Airborne), 1st Special Forces.

c. On 18 December 1968, Headquarters, 5th Special Forces Group (Airborne) Special Orders awarded the applicant the Combat Infantryman Badge. On 14 May 1969, Headquarters, 5th Special Forces Group (Airborne) General Orders (GO) awarded the applicant the Bronze Star Medal with "V" Device for heroism performed, on 16 March 1969.

d. Item 40 (Wounds) in the applicant's DA Form 20 (Enlisted Qualification Record) is blank.

e. On 19 August 1969, the applicant completed his Vietnam tour, and orders reassigned him to Fort Lewis, WA for separation processing. On 21 August 1969, the Army honorably released the applicant from active duty, based on an early release policy, and transferred him to the U.S. Army Reserve. His DD Form 214 shows he completed 2 years, 9 months, and 7 days of his 3-year enlistment contract. The report additionally reflects the following:

(1) Item 22c (Statement of Service – Foreign and/or Sea Service) – 10 months and 27 days completed in USARPAC (U.S. Army Pacific Command).

(2) Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) –

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Parachutist Badge
- Republic of Vietnam Parachutist Badge
- Bronze Star Medal (1st Award) with "V" Device
- Combat Infantryman Badge
- Expert Marksmanship Qualification Badge with Machine Gun Bar (M-60)
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Two overseas service bars

(3) Item 30 (Remarks) does not list the dates of the applicant's service in Vietnam.

e. On 2 September 1969, Headquarters, 5th Special Forces Group (Airborne) General Orders (GO) awarded the applicant the Bronze Star Medal (2nd Award) for meritorious service, during the period 24 September 1968 to 21 August 1969.

f. On 9 March 2009, the applicant petitioned the ABCMR, requesting the award of the Purple Heart.

(1) In support of his request, the applicant submitted the same two letters of support he now provides with this application.

(2) On 11 August 2009, the Board denied the applicant's request, noting "Witness statements, by themselves, are not sufficient evidence upon which to base a correction of the applicant's records."

g. On 15 December 2015, the applicant filed a reconsideration request and offered the same two letters of support that he now provides, along with a Cold War Recognition Certificate. On 3 November 2016, the Army Review Boards Agency administratively closed the application, stating the request had been received beyond the regulatory 1-year time limit then in effect for reconsiderations.

h. A review of the applicant's available service record shows it is void of any derogatory information. In addition, his DA Form 20 reflects the following:

(1) Item 38 (Record of Assignments – Conduct – Efficiency) – The applicant earned "Excellent" ratings for all periods, except while undergoing medical specialist and radio operator training; for these periods the applicant earned "Excellent" for conduct and "Good (A (academic))" for efficiency.

(2) Item 41 (Awards and Decorations) – The Purple Heart is not listed.

6. The Vietnam Casualty Roster is a listing of Vietnam-era casualties commonly used to verify the entitlement to the award of the Purple Heart; the applicant is not listed on this roster.

7. The Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the U.S. Army Human Resources Command, does not contain any General Orders awarding the applicant the Purple Heart.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The applicant's request for a personal appearance hearing was carefully considered. However, in this case, the evidence of record and independent evidence provided by the applicant was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.
3. The Board found the statements from the Soldiers with whom the applicant served compelling and believable, because the authors had direct knowledge of the incident. However, since neither the applicant nor the letters of support were not able to pinpoint the date of the wounding other than to say it occurred in January or February 1969; the Board determined the record should be corrected to show he was wounded on 1 February 1969, as a matter of equity.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The concurs with the administrative corrections listed under "Administrative Notes" and 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:

- a. awarding him the Purple Heart for wounds he sustained as a result of hostile enemy action on 1 February 1969, and

b. awarding him the Army Good Conduct Medal (1st Award) for the period 15 November 1966 through 21 August 1969.

c. correcting block 24 (Decorations, Medals, Badges, Commendations and Campaign Ribbons Awarded or Authorized) to delete the Vietnam Service Medal and to add the:

- Purple Heart
- Army Good Conduct Medal (1st Award)
- Bronze Star Medal (2nd Award) with "V" Device
- Vietnam Service Medal with four bronze service stars
- Meritorious Unit Commendation
- Republic of Vietnam Civil Actions Honor Medal, First Class Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

b. correcting block 30 (Remarks) to add the entry, "Service in Vietnam from 23 September 1968 to 19 August 1969."

[REDACTED]

[REDACTED]

[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(S): make the following administrative correct the applicant's DD Form 214, ending 21 August 1969, without action by the Board:

a. delete the Vietnam Service Medal from block 24, and add the -

- Bronze Star Medal (2nd Award) with "V" Device
- Vietnam Service Medal with four bronze service stars
- Meritorious Unit Commendation
- Republic of Vietnam Civil Actions Honor Medal, First Class Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

b. add, to block 30 (Remarks), the entry, "Service in Vietnam from 23 September 1968 to 19 August 1969."

REFERENCES:

1. Title 10, USC, 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. AR 672-5-1 (Awards) prescribed policies and procedures for military awards. It stated the following:

a. The Purple Heart 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. Substantiating evidence had to be provided verifying that the wound resulted from hostile action, the wound required treatment by medical personnel, and the medical treatment received had been made a matter of official record.

b. 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, commanders could award the Army Good Conduct Medal, upon termination of the Soldier's service on or after 27 June 1950, if he or she had served less than 3 years but more than 1 year. Additionally, the Soldier had to have had no court-martial convictions and all "Excellent" conduct and efficiency ratings; however, Service School efficiency ratings based upon academic proficiency of at least "Good" were not disqualifying.

3. AR 15-185 (ABCMR), currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

b. An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

4. AR 635-5 (Separation Documents), in effect at the time, stated the DD Form 214 was to list all decorations, service medals, campaign credits, and badges awarded or authorized. Additionally, change 11, effective January 1970, required the DD Form 214 to show a separating Soldier's Vietnam service in remarks.

5. AR 600-8-22, currently in effect, 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; Vietnam campaigns include the following:

- Counteroffensive, Phase V (1 July 1968 to 1 November 1968)
- Counteroffensive, Phase VI (2 November 1968 to 22 February 1969)
- Tet 69/Counteroffensive (23 February 1969 to 8 June 1969)
- Summer-Fall 1969 (9 June 1969 to 31 October 1969)

3. Department of the Army Pamphlet (DA PAM) 672-3 (Unit Citation and Campaign Participation Credit Register) shows:

a. Department of the Army General Orders (DAGO) Number 70, dated 1969, awarded the 5th Special Forces Group, 1st Special Forces the Meritorious Unit Commendation, for the period 31 January to 31 December 1968

b. DAGO Number 48 dated 1971, awarded Detachment B-55, 5th Special Forces Group, 1st Special Forces the Republic of Vietnam Civil Actions Honor Medal, First Class for the period 23 May 1968 to 24 September 1970.

c. DAGO Number 8, dated 1974, awarded all units that served in Vietnam the Republic of Vietnam Gallantry Cross with Palm Unit Citation.

4. GO awarded the applicant the Bronze Star Medal (2nd Award). Additionally, the applicant's DA Form 20 and DD Form 214 show he served in Vietnam from 23 September 1968 to 19 August 1969 (10 months and 27 days).

//NOTHING FOLLOWS//