

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 February 2024

DOCKET NUMBER: AR20230008320

APPLICANT REQUESTS: correction of the former service member's (FSM) DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show the:

- Purple Heart (PH)
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 23 April 1970
- National Personnel Records Center (NPRC) Letter, dated 7 March 2023

FACTS:

1. The applicant did not file within the three-year time frame provided in Title 10, United States Code, section 1552(b); however, the 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 her husband, the FSM, was awarded the PH and the Republic of Vietnam Gallantry Cross with Palm Unit Citation. When the FSM was alive, he never requested the awards to be added. Applicant states it is important to have the above-mentioned awards added to the FSM's record.

3. The applicant provides:

a. A letter issued by NPRC to the applicant, dated 7 March 2023, which lists the following awards as issued to the applicant:

- PH
- Good Conduct Medal
- National Defense Service Medal
- Vietnam Service Medal with four bronze service stars

- Republic of Vietnam Campaign Ribbon with Device (1960)
- Expert Badge with Rifle Bar

b. A marriage certificate which reflects the applicant was married to the FSM on 31 May 1996.

c. The FSM's death certificate, dated 10 February 2022.

4. The FSM's service record shows:

a. The FSM enlisted in the Regular Army on 24 April 1967. He held military occupational specialty 63B, Engineer Equipment Repairer.

b. His DA Form 20 (Enlisted Qualification Record) shows in:

- item 31 (Foreign Service): He served in Vietnam from 1 September 1968 to 25 August 1969; he was assigned to 137th Engineer Company
- item 40 (Wounds): Neck laceration, 16 April 1969
- item 41 (Awards and Decorations): PH

c. The FSM was honorably released from active duty on 23 April 1970 and transferred to the U.S. Army Reserve. His DD Form 214 shows he completed 3 years of active service. It also shows he was awarded or authorized:

- Good Conduct Medal
- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal with Device 1960
- Expert Marksmanship Qualification Badge with Rifle Bar

5. The FSM is authorized additional awards not listed on his DD Form 214. As a result, these items which will be administratively corrected without action being taken by the Board. The Board will consider award of the PH.

6. The FSM's name is not shown on the Department of the Army Office of the Adjutant General Vietnam Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

7. A review of 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 Military Awards Branch, failed to reveal any orders for the PH pertaining to the applicant.

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. In addition to the corrections addressed in the Administrative Note below, the Board determined the evidence of record was sufficient to grant relief. Specifically, the Board noted the FSM's DA Form 20 is reflective of having been wounded and having received the Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

In addition to the administrative note of the analyst of record below, 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 adding the Purple Heart to his DD Form 214, for the period ending 23 April 1970.

■

■ ■

■

■

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 records shows he is authorized additional awards not listed on his DD Form 214. As a result, amend his DD Form 214 by adding:

- a. Item 24 (Awards) to show he was authorized the following awards:
 - Republic of Vietnam Gallantry Cross with Palm Unit Citation
 - Vietnam Service Medal with four bronze service stars

- Meritorious Unit Commendation
- Republic of Vietnam Civil Actions Honor Medal First Class

b. Item 30 (Remarks) to reflect in item 30 (Remarks): Service in Vietnam from 1 September 1968 to 25 August 1969.

REFERENCES:

1. Title 10, United States 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 Army Board for Correction of Military Records (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 in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army, who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received, under any of the following circumstances:

(1) In any action against an enemy of the United States.

(2) In any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged.

(3) While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(4) As the result of an act of any such enemy or opposing Armed Forces.

(5) As the result of an act of any hostile foreign force.

(6) After 7 December 1941, pursuant to Title 10, United States Code, section 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

(7) On or after 7 December 1941, to a member who is killed or dies while in captivity as a Prisoner of War under circumstances establishing eligibility for the Prisoner of War Medal, unless compelling evidence is presented that shows the member's death was not the result of enemy action.

b. To qualify for award of the Purple Heart the wound must have been of such severity that it required treatment, not merely examination, by a medical officer. A

wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) Award may be made for a wound treated by a medical professional other than a medical officer provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

(3) A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) A medical officer is defined as a physician with officer rank. The following are medical officers:

- An officer of the medical corps of the Army.
- An officer of the medical corps of the U.S. Navy.
- An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101.

c. Examples of enemy-related injuries which clearly 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

a. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

- Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- Trench foot or immersion foot
- Heat stroke
- Food poisoning not caused by enemy agents
- Chemical, biological, or nuclear agents not released by the enemy
- Battle fatigue
- Disease not directly caused by enemy agents
- Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action
- Self-inflicted wounds, except when in the heat of battle and not involving gross negligence
- Post-traumatic stress disorders
- Airborne (for example, parachute/jump) injuries not caused by enemy action
- Hearing loss and tinnitus (for example: ringing in the ears)
- Mild traumatic brain injury 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
- Abrasions and lacerations (unless of a severity to be incapacitating)
- Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- First degree burns

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register), paragraph 6d, states that Department of the Army General Orders Number 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Army Vietnam, and its subordinate units for the period 20 July 1965 to 28 March 1973.

4. Department of the Army 672-3 (Unit Citation and Campaign Participation Credit Register), also shows during his service with the 137th Engineer Company from 1 September 1968 to 25 August 1969; this unit was cited for award of the Meritorious Unit Commendation—1 August 1969 to 3 February 1970, by DA General Orders Number 2, dated 1971

//NOTHING FOLLOWS//