

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 March 2024

DOCKET NUMBER: AR20230008325

APPLICANT REQUESTS: The applicant, the son of a deceased former service member (FSM), requests, in effect, that the Board award his father the Purple Heart.

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)
- FSM's Death Certificate
- Applicant's Birth Certificate, Baptismal Certificate, and Birth Registration Notice

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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 requested his father's medals, and they are sending all but the Purple Heart; they told the applicant they were unable to verify that his father received the Purple Heart, but it is clearly listed on his father's DD Form 214. The applicant asks that the Board send him the Purple Heart. In support of his request, the applicant provides a copy of his father's DD Form 214, which shows the following awards:

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Army Good Conduct Medal (1st Award)
- "US ARCOM MEDAL"
- "PURPLE HEART"

3. A review of the FSM's service record reveals the following:

a. On 25 October 1965, the Army of the United States (AUS) inducted the FSM for a 2-year term of active duty service.

(1) After initially reporting to Fort Jackson, SC, orders transferred the FSM to Fort Hood, TX (now renamed Fort Cavazos), where he completed basic combat training in an artillery battalion, and then moved to an infantry battalion for advanced individual training in military occupational specialty (MOS) 11B (Light Weapons Infantryman).

(2) On 19 March 1966, the infantry battalion's leadership awarded him MOS 11B, and kept FSM assigned to the battalion. On 24 March 1966, the infantry battalion leadership moved the FSM to the duty position of Personnel Specialist (MOS 71H).

b. In or around August/September 1966, the FSM received reassignment instructions for Vietnam. On or about 22 October 1966, he arrived in Vietnam and orders further assigned him as a Personnel Specialist to Headquarters and Headquarters Battery, 54th Artillery Group; he arrived at his new unit on or about 2 November 1966. Effective 14 March 1967, Artillery Group leadership transferred the FSM to another duty position within the unit: stenographer (MOS 71C).

c. On 14 August 1967, Headquarters, 54th Artillery Group General Orders (GO) awarded the FSM the Army Good Conduct Medal (1st Award). On 6 September 1967, U.S. Army, Vietnam GO awarded the FSM the Army Commendation Medal for meritorious service, during the period November 1966 to September 1967.

d. On or about 10 September 1967, the FSM completed his tour in Vietnam, and orders reassigned him to the U.S. Army Personnel Center at Oakland, CA for separation processing. On 11 September 1967, the Army honorably released the FSM from active duty, based upon an early release policy, and transferred him to the U.S. Army Reserve for the balance of his military service obligation. His DD Form 214 shows he completed 1 year, 10 months, and 17 days of his 2-year AUS term. The report additionally reflects the following:

- Item 22c (Statement of Service – Foreign and/or Sea Service) – USARPAC (U.S. Army, Pacific) – 10 months and 20 days
- Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – National Defense Service Medal, Army Good Conduct Medal (1st Award), Vietnam Service Medal, Republic of Vietnam Campaign Medal with Device (1960)

e. In or around April 2002, the FSM requested that the National Personnel Records Center (NPRC) issue him all authorized medals and awards.

(1) With his request, the FSM provided the Member – 1 copy of his DD Form 214; this DD Form 214 does not show either the "US ARCOM MEDAL" or the "PURPLE HEART."

(2) On 22 April 2002, NPRC responded with a DA Form 1577, listing the FSM's authorized awards; the form does not identify the Purple Heart as an authorized award.

f. The FSM's DA Form 20 (Enlisted Qualification Record), item 40 (Wounds) does not state that the FSM sustained wounds, and item 41 (Awards) does not list the Purple Heart among the FSM's awards.

4. 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 FSM is not listed on this roster.

5. 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 and maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any GOs awarding the Purple Heart to the FSM.

6. During the FSM's era of service, Army Regulation (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 or injuries as a result of hostile action.

b. Substantiating evidence had to be provided verifying that the wound or injury resulted from hostile action, the wound or injury required treatment by medical personnel, and the medical treatment received had been made 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 relief is not warranted.

2. The Board found the copy of the DD Form 214 provided by the applicant insufficient as a basis for confirming the FSM's entitlement to the Purple Heart. The copy of the

DD Form 214 filed in the FSM's Official Military Personnel File does not list the Purple Heart and there are no casualty records showing the FSM was wounded as a result of hostile action during his service in Vietnam. Based on a preponderance of the evidence, the Board determined the FSM was not entitled to the Purple Heart.

3. The Board concurred with the corrections described in Administrative Note(s) below.

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:

Other than the corrections addressed in Administrative Note(s) below, the Board determined 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 otherwise insufficient as a basis for correction of the records of the individual concerned.

6/25/2024

X █

CHAIRPERSON

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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 FSM is authorized awards that were not recorded on his DD Form 214. Please correct the DD Form 214 by adding the following:

- Army Commendation Medal
- Two bronze service stars with the Vietnam Service Medal
- Meritorious Unit Commendation
- Republic of Vietnam Civil Actions Honor Medal First Class Unit Citation
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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, in effect at the time, 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.

b. 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.

3. AR 15-185, 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).

b. 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.

//NOTHING FOLLOWS//