

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 March 2024

DOCKET NUMBER: AR20230008383

APPLICANT REQUESTS: reconsideration of his previous request for award of the Purple Heart. Additionally, he requests a personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Standard Form (SF) 519-A (Radiographic Report), 11 May 1970
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), 4 June 1971

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20210007628 on 9 November 2021.

2. The applicant states, in effect, he is requesting the Purple Heart for injuries he sustained in Vietnam, on 11 May 1970, when his tank hit a land mine. He was unaware that his unit failed to submit the appropriate paperwork to document his injury.

3. The applicant's DA Form 47 (Record of Induction) confirming, dated 16 May 1969, shows a local medical board interview found that he had a physical defect consisting of Perthes' disease, but determined he was acceptable for induction. At the time, this document included an attachment that is no longer available for review. On 6 June 1969, he was inducted into the Army of the United States.

4. He completed training requirements and was awarded Military Occupational Specialty (MOS) 11E (Armor Crewman). He served in Vietnam from 1 December 1969 through 8 November 1970 with H Troop, 17th Cavalry, 198th Infantry Brigade.

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

- Item 38 (Record of Assignments), no hospitalization
- Item 40 (Wounds), no entries

- Item 41 (Awards and Decorations), the Purple Heart is not listed

6. The applicant provided an SF 519-A, dated 13 May 1970, showing an x-ray examination was requested for the applicant's chest, ribs, pelvis, and lumbar spine because he was "Hit [a] Mine - [and he sustained a] Back Injury - [he complained of]... pain [in his right]... flank." The radiographic report reveals the x-ray of his chest, ribs, pelvis, and spine were normal.

7. A Standard Form (SF) 88 (Report of Medical Examination), dated 10 March 1971, which details his separation physical, cites no back injuries incurred during his service in Vietnam. An SF 89 (Report of Medical History) states he had back trouble and he was referred for an Orthopedic consultation, which is not in the available service record.

8. On 4 June 1971, he was honorably released from active duty and was transferred to the US Army Reserve Control Group (Annual Training). He completed 1 year, 11 months, and 29 days of active service. His DD Form 214 does not list the Purple Heart, but it does list the:

- National Defense Service Medal
- Sharpshooter Marksmanship Qualification Badge M-14 [Rifle]
- Marksman Marksmanship Qualification Badge M-16 [Rifle]
- Vietnam Service Medal
- Republic of Vietnam (RVN) Campaign Medal
- Combat Infantryman Badge
- Army Commendation Medal
- Bronze Star Medal
- Good Conduct Medal

9. His name is not listed on the Vietnam Casualty Roster and 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 Military Awards Branch of the U.S. Army Human Resources Command, failed to reveal orders for award of the Purple Heart pertaining to the applicant.

10. The applicant previously applied to the ABCMR requesting award of the Purple Heart. On 9 November 2021, the Board denied the applicant's request determining the evidence presented did not demonstrate the existence of a probable error or injustice and the overall merits of the case were insufficient as a basis for correction of his records.

11. The applicant's record was administratively corrected to add a unit award and campaign credit currently missing from his DD Form 214.

BOARD DISCUSSION:

1. The Board determined the evidence of record 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.

2. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was not warranted. The applicant's contentions, his military records, and regulatory guidance were carefully considered. To be awarded the Purple Heart, the regulatory guidance requires all elements of the award criteria to be met; there must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record. The applicant served in Vietnam from 1 December 1969 through 8 November 1970 with H Troop, 17th Cavalry, 198th Infantry Brigade. The Board found no evidence that shows he was wounded/injured as a result of hostile action and/or medical treatment record to confirm if an injury occurred and if it required medical treatment. As a result, the Board determined he does not meet the criteria for award of the Purple Heart.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

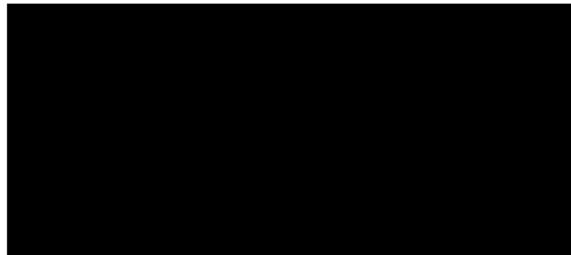
: : : GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

■ ■ ■ DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

Except for the corrections addressed in Administrative Note(s) below, 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 to amend the decision of the ABCMR set forth in Docket Number



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): correct block 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) to by deleting the Vietnam Service Medal, and adding the -

- Vietnam Service Medal with 3 bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. Paragraph 2-11 contains guidance on ABCMR hearings, and it states that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 600-8-22 (Military Awards) currently in effect, provides that 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 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. Award of the Purple Heart is announced in orders.

4. Army Regulation 600-8-22 also states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States for qualifying service in Vietnam after 3 July 1965 through 28 March 1973. A bronze service star is authorized with the Vietnam Service Medal for each Vietnam campaign a member is credited with participating in. The applicant participated in the following three campaigns, and he is authorized three bronze service stars to be worn on the Vietnam Service Medal.

- Winter-Spring, 1 November 1969 to 30 April 1970
- Sanctuary Counteroffensive, 1 May 1970 to 30 June 1970
- Counteroffensive Phase VII, 1 July 1970 to 30 June 1971

5. U.S. Army Vietnam Regulation 672-1 (Decorations and Awards), previously in effect, stated the authority to award the Purple Heart was delegated to hospital commanders. It directed that all personnel treated and released within 24 hours would be awarded the

Purple Heart by the organization to which the individual was assigned. Personnel requiring hospitalization in excess of 24 hours or evacuation from Vietnam would be awarded the Purple Heart directly by the hospital commander rendering treatment.

6. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the unit awards received by units serving in Vietnam. This document shows the unit to which the applicant was assigned [H Troop, 17th Cavalry, 198th Infantry Brigade] was cited for the RVN Gallantry Cross with Palm Unit Citation for the period 24 August through 31 December 1969 and 31 March through 30 June 1970, by DAGO Number 42, dated 1972.

//NOTHING FOLLOWS//