

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 March 2024

DOCKET NUMBER: AR20230008419

APPLICANT REQUESTS: correction of her father's records, a former service member (FSM) to show he was entitled to and awarded a Purple Heart (PH) (3rd Award).

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- WD AGO Form 53-55 (Enlisted Record and Report of Separation Honorable Discharge) for the period ending 1 October 1945
- Applicant's Birth Certificate, [REDACTED]
- Applicant's Marriage License, [REDACTED]
- Veteran Identification Screen
- National Personnel Records Center (NPRC) letter, 18 April 2023
- DD Forms 1577 (Authorization for Issuance of Awards)

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, in effect, that her father was wounded multiple times, and as a result, he was awarded the three PH's. When the FSM was alive, he requested a PH to be added to his WD AGO 53-55. She states that it is documented that the FSM was in the medical tent wounded when General Patton had a confrontation with wounded Soldiers that cost him his command. She also notes that when she was ordering a copy of the FSM's medals, it was noted that the PH's were missing.

3. The FSM's complete military records are not available to the Board for review. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center (NPRC) in 1973. It is believed that his records were lost or destroyed in that fire. The National Archives and Records Administration (NARA) provided ABCMR limited copies of the FSM's service records; however, records are sufficient for the Board to conduct a fair and impartial review of this case.

4. The applicant provided the following documents:

a. Local newspaper articles that highlight her father's service and achievements along with the mention of him earning a PH.

b. A picture of her father's awards, to include a PH.

c. Applicant's birth certificate, dated [REDACTED], which reflects she was the daughter of the FSM.

d. Applicant's marriage license, dated [REDACTED], which reflects the FSM was her father.

e. A letter issued by NPRC to the applicant, dated 18 April 2023 lists the awards in which the FSM was authorized, to include the following awards:

- Bronze Star Medal
- Army Good Conduct Medal (AGCM)
- Presidential Unit Citation (PUC)
- European-African Middle Eastern Campaign Medal (EAME) with one silver service star with arrowhead
- Army of Occupation of Germany (Rhineland campaign)
- Belgian Fourragere
- The Honorable Service Lapel Button WWII
- World War II Victory Medal
- Combat Infantryman Badge (CIB) (1st award)

f. The NPRC does not list any PH's that the FSM was awarded.

g. A document issued by NPRC notes that the FSM is entitled to an Oak Leaf Cluster to the BSM based on the award of the CIB/Combat Medal Badge.

5. The FSM's service record reflects the following documents:

a. The FSM was inducted into the Army of the United States and entered active service on 21 November 1942. At the time of his separation, he held military occupational specialty 611, Armorer, and he was assigned to Company B, 394th Infantry.

b. He served in the North African, Middle Eastern, and European Theaters of Operations from 30 April 1943 top 11 September 1945.

c. He was honorably separated on 1 October 1945 and transferred to the Enlisted Reserve Corps. He completed 5 months and 12 days of continental service and 2 years, 4 months, and 29 days of foreign service. His WD AGO Form 53-55 shows in:

- Item 31 (Military Qualifications and Date) Combat Infantryman Badge
- Item 32 (Battles and Campaigns): Sicily, Normandy, Northern France, Rhineland, Ardennes, and Central Europe
- Item 33 (Decorations and Citations): does not reflect any Purple Hearts; it lists the Distinguished Unit Citation, Good Conduct Medal, Bronze Service Medal, Bronze Service Arrowhead, and European-African-Middle Eastern Service Medal with four bronze service stars
- Item 34 (Wounds Received in Action): None

7. There are no general orders present or provided to confirm the FSM's receipt of 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 not warranted. The Board carefully considered the former service member's (FSM) 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 there is no medical record showing the FSM received wounds caused by enemy forces that required treatment by medical personnel. The burden of proof rest on the applicant and the applicant provided no evidence to support her 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. Per the 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. Therefore, the Board denied relief.

3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

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:

Except for the correction addressed in Administrative Note(s) below, the Board found 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.

X [REDACTED]

---

CHAIRPERSON  
[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):

A review of the applicant's records shows he is authorized an additional award not listed on his DD Form 214. As a result, amend his DD Form 214 for the period ending on 15 August 2005 by adding to item 33 (Decorations and Citations) the following awards:

- World War II Victory Medal
- EAME with one silver service star with arrowhead

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. Department of the Army Pamphlet 672-1 (Unit Citation and Campaign participation) reflects the 394<sup>th</sup> Infantry Regiment was in the Rhineland Campaign.

3. Army Regulation 600-45 (Military Awards) provides, in pertinent part, that the Purple Heart is awarded for a wound sustained 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 been treated by a medical officer, and the medical treatment must have been made a matter of official record.

4. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. CIB/BSM Authorization, Chapter 15f (2) of the awards regulation states the BSM is authorized to members of the Armed Forces of the United States who, after 6 December 1941, were cited in orders or awarded a certificate for exemplary conduct in ground combat against an armed enemy between 7 December 1941 and 2 September 1945. For this purpose, an award of the CIB or Combat Medical Badge (CMB) is considered as a citation in orders. Award of the BSM from these documents will not negate the original award or the CIB or CMB.

b. World War II Victory Medal, Chapter 2-29 states, the World War II Victory Medal was established by an Act of Congress 6 July 1945 (59 Stat 461). It is awarded for service between 7 December 1941 and 31 December 1946, both dates inclusive.

c. 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

5. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//