

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 March 2024

DOCKET NUMBER: AR20230008545

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 28 February 1991 to show awards of:

- Silver Star
- Bronze Star Medal with "V" (Valor)
- Purple Heart (PH)
- Driver and Mechanic Badge

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

- DD Form 149 (Application for Correction of Military Record), 8 May 2023
- Self-authored statement, 1 March 2023
- DD Form 214, 28 February 1991
- VA Form 21-4142 (Authorization to Disclose Information to the Department of Veterans Affairs (VA))
- ARBA letter, 26 July 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); 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, in effect:

a. He deserves to be recognized for his duty to his country. He was assigned to the 47th Transportation Company as a truck driver of a petroleum company in Long Benin, and he was not given a driver badge for 65,000 accident-free miles.

b. He spent the first 4 months hauling jet fuel. His duty changed and he was assigned to a gun truck as the gunner. His secondary military occupational specialty was 11H, reconnaissance. The ambushes never stopped and he was put in a different duty as a jeep gunner.

c. He was assigned to a patrol of 18 Soldiers 30 days before he was sent home. His tour was involuntarily extended, and he was to continue his mission in the field. He never saw his extension orders. He never questioned anyone about why he had to stay. South Vietnamese Soldiers were assigned to his patrol for training. His unit was sent on many patrols and was ambushed with many lives lost. Many Soldiers went absent without leave (AWOL).

d. His sergeant went back to get new missions and replacements and left him in charge of the patrol. He (The applicant) did not return to the unit (Headquarters). He was now on his third year doing the same thing and had no sense of what he was doing. One day the sergeant did not return so he took charge and brought the group back to find out what happened to him. The sergeant gave him the mission packet and he was promoted to sergeant.

e. His life was different when he returned after four tours. He was not supposed to do anything different than what other Soldiers did in his primary job skill. He made the Army his career and retired at staff sergeant/E-6 with 22 years. His promotion was delayed due to not processing his awards. A clerk corrected his records, finding extra years he served in Vietnam.

f. He is asking to be recognized and given awards earned during his career and beyond his duty while leading a small combat unit, including the Silver Star, Bronze Star Medal with V Device, and the Purple Heart for wounds received in combat from explosives treated by combat medics.

e. He left Vietnam after being taken to Bien Hoa. He was told he had to be home in 24 hours. Three of them returned from the mission. They were forgotten and left behind. After all these years he should be granted what he deserved.

3. Regarding the Bronze Star Medal with V device and the Silver Star, the applicant's request is premature. There is no evidence the applicant was recommended for or awarded these awards. However, there is a path for the applicant to request these awards. Army Regulation (AR) 600-8-22 (Military Awards) prescribes Department of the Army policy, criteria, and administrative instructions concerning individual and unit military awards. Paragraph 1-14 of this regulation states, except for award recommendations submitted in accordance with the provisions of Section 1130, Title 10, United States Code (10 USC 1130), which is outlined below, each recommendation for an award of a military decoration must be entered administratively into military channels within 2 years of the act, achievement, or service to be honored, except for the Medal of Honor, Distinguished Service Cross, and Distinguished Service Medal. An award recommendation will be considered to have been submitted into military channels when it has been signed by the initiating officer and endorsed by a higher official in the chain of command. However, pursuant to 10 USC 1130, a Member of Congress can request

consideration of a proposal for the award or presentation of decoration (or the upgrading of a decoration), either for an individual or unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy. Based upon such review, the Secretary of the Army will make a determination as to the merit of approving the award or presentation of the decoration and other determinations necessary to comply with congressional reporting requirements under 10 USC 1130.

a. 10 USC 1130 allows the Service Secretary concerned to review a proposal for the award of, or upgrading of, a decoration that is otherwise precluded from consideration by limitations established by law or policy. To request an award under Title 10 USC 1130, you must submit a DA Form 638 (Recommendation for Award).

b. The DA Form 638 should clearly identify the applicant's unit, the period of assignment, and the award being recommended. A narrative of the actions or period for which the member is requesting recognition must accompany the DA Form 638. In addition, the award request should be supported by sworn affidavits, eyewitness statements, certificates, and related documents. Corroborating evidence is best provided by commanders, leaders, and fellow Soldiers who had personal (i.e., eyewitness) knowledge of the circumstances and events relative to the request.

c. 10 USC 1130 also requires that a request of this nature be referred to the Service Secretary from a Member of Congress. Therefore, the requestor must submit their request through a Member of Congress who will send it to the United States Army Human Resources Command, ATTN: AHRC-PDP-A, 1600 Spearhead Division Avenue, Fort Knox, KY 40122. The burden and costs for researching and assembling documentation to support approval of requested awards and decorations rest with the requestor.

d. If the applicant chooses to pursue an upgrade of the award(s) requested by submitting a request under the provisions of Title 10 USC 1130, and his request is subsequently denied by the United States Army Human Resources Command, he may reapply to the ABCMR. Therefore, the Bronze Star Medal and Silver Star will not be discussed further in this Record of Proceedings.

4. The applicant's DD Form 214 for the period ending 28 February 1991, shows he was awarded the Driver and Mechanic Badge. This issue will also not be discussed further in this record of proceedings.

5. The applicant's records contain sufficient evidence to support an additional award to his DD Form 214, which will not require Board action and will be listed in the "Administrative Notes" section of this document.

6. A review of the applicant's available service records shows:

a. On 20 May 1969 he enlisted in the Regular Army for a period of 3 years. He completed Basic Combat Training, Advanced Individual Training, and was awarded military occupational specialty 64C (Light Vehicle Driver).

b. He served in Vietnam from 6 October 1969 to 14 November 1970 and he was assigned to 47th Transportation Company (Medium Truck Petroleum), Vietnam. This unit was awarded the Meritorious Unit Commendation during this period.

c. His available service records are void of a copy of his DD Form 214, dated 28 July 1971, showing his record of service for his first enlistment, the service dates he completed in Vietnam, and the awards he was awarded or authorized.

d. On 29 July 1971, he reenlisted for 4 years and he was separated on 29 April 1975. His available service records are void of a copy of his DD Form 214, dated 29 April 1975, showing his record of service for this enlistment, the foreign service he completed, and the awards he was awarded or authorized during this period.

e. On 30 April 1975, he reenlisted for a period of 6 years. His DA Form 2-1 (Personnel Qualification Record) shows in

(1) item 5 (Oversea Service) he served in:

- U.S. Army Pacific, Vietnam, from 17 October 1969 to 22 May 1971, 18 months
- "U.S. Army Pacific," Germany, 17 October 1971 to 12 October 1974, 36 months
- European Area, Germany, 13 March 1978 to 8 March 1983, 48 months
- European Area, Germany, 23 January 1987 to 20 January 1990, 36 months

(2) item 9 (Awards, Decorations, and Campaigns):

- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Army Achievement Medal (First Award)
- Driver and Mechanic Badge
- Army Good Conduct Medal (Seventh Award)
- Army Commendation Medal (Second Award)
- Army Service Ribbon
- Noncommissioned Officer Professional Development Ribbon (Numeral 3)

- National Defense Service Medal
- Overseas Service Ribbon (Second Award)

(3) item 38 (Current and Previous Assignments) – in part, while in Vietnam, he was assigned to 47th Transportation Company (Medium Truck Petroleum).

f. On 28 February 1991, he was honorably retired for length of service. His DD Form 214 for this period shows in:

(1) Block 12 (Record of Service):

- block 12c (Net Active Service This Period) – 15 years, 10 months, and 1 day
- block 12d (Total Prior Active Service) – 5 years, 11 months, and 10 days
- block 12f (Foreign Service) – 6 years, 11 months, and 24 days

(2) Block 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized):

- Army Service Ribbon
- Army Good Conduct Medal (Seventh Award)
- Vietnam Service Medal with four bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Army Achievement Medal
- Driver and Mechanic Badge
- Army Commendation Medal with First Oak Leaf Cluster
- Noncommissioned Officer Professional Development Ribbon (Numeral 3)
- Overseas Service Ribbon (Third Award)
- National Defense Service Medal
- Sharpshooter Marksman Qualification Badge with Rifle Bar (M-16)
- Republic of Vietnam Campaign Medal with Device (1960)

g. On 28 December 2009, he was issued a DD Form 215 (Correction to DD Form 214) which amended his DD Form 214 for the period ending 28 February 1991 to show additional awards, however these amendments did not include the Purple Heart.

h. The applicant's records are void of a commander's recommendation or orders awarding him the Purple Heart.

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 Silver Star, Bronze Star Medal with "V", and the Purple Heart pertaining to the applicant.

8. His name is not shown on the Department of the Army Office of the Adjutant General 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.

BOARD DISCUSSION:

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 on or about 6 October 1969 to 14 November 1970 and he was assigned to 47th Transportation Company (Medium Truck Petroleum). 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:

<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 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 for correction of the records of the individual concerned.



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 applicant's records contain sufficient evidence to support an additional award not shown on his DD Form 214 and should be administratively corrected without Board action to show award of the Meritorious Unit Commendation.

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 (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.

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

a. The Silver Star is awarded for gallantry in action against the enemy. The required gallantry (spirited and conspicuous acts of heroism and courage) must have been performed with marked distinction. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

b. The Bronze Star Medal is awarded in time of war for heroism and for meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy, or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

(1) Awards may be made for acts of heroism, which are of lesser degree than required for the award of the Silver Star.

(2) When the Bronze Star Medal is awarded for heroism, a bronze letter "V" (for valor) is worn on the suspension and service ribbon of that medal.

(3) The Bronze Star Medal may be awarded for meritorious achievement or meritorious service to recognize single acts of merit or meritorious service.

c. The Purple Heart is awarded for a wound sustained 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 a medical officer, and the medical treatment must have been made a matter of official record. The Purple Heart differs from all other decorations in that an individual is not "recommended" for the decoration; rather, he or she is entitled to it upon meeting specific criteria. A Purple Heart is authorized for the first wound suffered under conditions indicated above; an oak leaf cluster is awarded to be worn on the medal or ribbon for each subsequent award. Not more than one award will be made for more

than one wound or injury received at the same instant or from the same missile, force, explosion, or agent.

4. Section 1130 of the United States Code (Title 10 USC 1130) allows the Service Secretary concerned to review a proposal for the award of, or upgrading of, a decoration otherwise precluded from consideration by limitations established by law or policy. In order to request an award under Title 10 USC 1130, a completed DA Form 638 (Recommendation for Award), is required. The DA Form 638 should clearly identify the unit, the period of assignment, and the recommended award. A narrative of the actions or period of the award recognition requested must accompany the DA Form 638. In addition, the award request should be supported by sworn affidavits, eyewitness statements, certificates, and related documents. Commanders, leaders, and fellow Soldiers who had personal (i.e., eyewitness) knowledge of the circumstances and events related to the request are the best persons to provide corroborating evidence.

5. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register (January 1960 – February 1986)), in effect at the time, shows 47th Transportation Company was awarded the Meritorious Unit Commendation by Department of the Army General Orders Number 24, 1972, for the period 1 September 1968 to 28 February 1970.

//NOTHING FOLLOWS//