

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 19 March 2024

DOCKET NUMBER: AR20230008639

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the Purple Heart (PH) with Oak Leaf Cluster.

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

- DD Form 149 (Application for Correction of Military Record), 2 May 2023
- Self-authored statement

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, he was wounded twice in the head during his service in Vietnam in the same incident, while serving with C Troop, 1/9th Battalion, 1st Cavalry Division in December 1966. Once he recovered, he continued serving and was awarded an Air Medal.
3. The applicant's records contain sufficient evidence to support an administrative correction to his DD Form 214 not requiring Board Action and will be listed in the "Administrative Notes" section.
4. A review of the applicant's service records shows:
 - a. On 15 March 1966, he was inducted into the Army of the United States. He completed basic combat training, Advanced Individual Training, and was awarded military occupational specialty 11B (Light Weapons Infantryman).
 - b. Special Orders Number 138 issued by Headquarters (HQ), U.S. Army Training Center and Fort Leopard Wood, dated 18 May 1966, awarded him the Marksman Marksmanship Qualification Badge with Rifle Bar (M-14).

c. Special Orders Number 204 issued by HQ, Fort Polk, dated 8 August 1966, awarded him the Marksman Marksmanship Qualification Badge with Machinegun Bar (M-60).

d. General Orders Number 6527 issued by 1st Cavalry Division, Vietnam, dated 25 October 1967, awarded him the Army Commendation Medal for meritorious service in Vietnam from October 1966 to October 1967.

e. General Orders Number 20 issued by HQ, U.S. Army Combat Developments Command, dated 12 February 1968, awarded him the Army Good Conduct Medal (First Award).

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

(1) Item 31 (Foreign Service) – service in U.S. Army Pacific-Vietnam, 7 October 1966 to 2 October 1967.

(2) Item 38 (Record of Assignments) – in part:

- Casual, enroute to U.S. Army Pacific, Vietnam, 3 September 1966
- B Troop, 1st Squadron, 9th Cavalry, 1st Cavalry Division, Vietnam, 13 October 1966 to 25 December 1966
- C Troop, 1st Squadron, 9th Cavalry, 1st Cavalry Division, Vietnam, 31 August 1967 to 1 October 1967
- casual, enroute to the United States, 2 October 1967
- 41st Infantry, Fort Ord, CA 20 November 1967 to 13 March 1968

(3) Item 40 (Wounds) – Gunshot wound to head, 1 December. The year was not listed on this form.

(4) Item 41 (Awards and Decorations) – he was awarded or authorized:

- Vietnam Service Medal
- National Defense Service Medal
- Combat Infantryman Badge
- Air Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- Army Good Conduct Medal

g. On 1 March 1968 he gave a report of medical history for the purpose of End of Term of Service. This report shows he had a head injury on 1 December 1967 as the result of a gunshot wound from the enemy in Vietnam.

h. On 14 March 1968, he was honorably released from active duty. He completed 2 years of net service this period, with 11 months of foreign service in Vietnam. His DD Form 214 shows he was awarded or authorized:

- National Defense Service Medal
- Vietnam Service Medal
- Combat Infantryman Badge
- Air Medal
- Republic of Vietnam Campaign Medal with Device (1960)

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 maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any orders for the Purple Heart pertaining to the applicant.

6. The applicant's 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 military record, the Board found that relief was partially warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Item 40 (Wounds) – of the applicant's DA Form 20 reflects the entry "Gunshot wound to head, 1 December" (The year was not listed on this form). Additionally, his Report of Medical History, dated 1 March 1968, shows he had a head injury on 1 December 1967 as the result of a gunshot wound from the enemy in Vietnam. The Board determined there is enough documentary evidence to show he meets the criteria for award of the Purple Heart.

b. An oak leaf cluster is a bronze or silver twig of four oak leaves with three acorns on the stem, 13/32 inch long for the suspension ribbon, and 5/16 inch long for the service ribbon bar and the unit award. The oak leaf cluster is issued to denote award of second and succeeding awards of decorations. A Purple Heart is authorized for the first wound suffered under authorized conditions; 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.

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:

1. In addition to the corrections addressed in Administrative Note(s) below, the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected, by:

- awarding him the Purple Heart for wounds received as a result of hostile action in Vietnam on 1 December 1967
- adding award of the Purple Heart to his DD Form 214

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to a second award (oak leaf cluster) of the Purple Heart.



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 additional awards not shown on his DD Form 214 and should be administratively corrected without Board action to show in:

a. Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons awarded or Authorized): award of the:

- Army Commendation Medal
- Army Good Conduct Medal (First Award)
- Valorous Unit Award
- two bronze service stars to his previously issued Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-14) and Machinegun Bar (M-60)

b. Item 30 (Remarks): "Vietnam Service: 7 October 1966 to 2 October 1967)."

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. It provides that 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. U.S. Army Vietnam (USARV) Regulation 672-5-1 (Decorations and Awards), prescribed policies, responsibilities, and criteria for awards in order to insure prompt and proper recognition of individuals. The regulation stated:

a. The Purple Heart may be awarded to U.S. personnel who are wounded or killed in action as a direct result of enemy action.

b. A wound for which the award is made must have required treatment by a medical officer and records of medical treatment for wounds or injuries received must have been made a matter of official record.

c. Authority to award the Purple Heart was delegated to hospital commanders. Further, 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.

5. DA PAM 672-3 (Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register (January 1960 – February 1986)) shows:

a. 1st Squadron, 9th Cavalry, was awarded Valorous Unit Award on 1-31 October 1967 by Department of the Army General Orders (DAGO) Number 37, 1970.

b. The applicant completed service in Vietnam during the following campaigns:

- Vietnam Counteroffensive, Phase II, 1 July 1966 – 1 May 1967
- Vietnam Counteroffensive, Phase III, 1 June 1967 – 29 January 1968

6. Department of the Army General Orders Number 8, 19 March 1974, confirmed award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Military Assistance Command, and its subordinate units during the period 8 February 1962 to 28 March 1973 and to Headquarters, U.S. Army Vietnam, and its subordinate units during the period 20 July 1965 to 28 March 1973.

//NOTHING FOLLOWS//