

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 12 April 2024

DOCKET NUMBER: AR20230008841

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.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 8-275-3 (Clinical Record Cover Sheet)
- Certificate, Purple Heart, dated 16 December 1968

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 that he received award of the Purple Heart while in the hospital in Saigon after being wounded. The award is not shown on his DD Form 214 and he would like to have his record amended, as he did not understand the importance of having it listed on his DD Form 214.
3. The applicant provides:
 - a. Clinical Record Cover Sheet that describes his diagnosis of "obstruction of small bowel, with adhesions, secondary to injuries sustained in an explosion on 15 December 1968... patient was injured on detonation of an enemy explosive device, Republic of Vietnam (exact location unknown). LD: Yes."
 - b. Certificate of the Purple Heart, issued by the 3d Field Hospital Commander, awarded to the applicant for wounds received in action on 15 December 1968.
4. The applicant's records contain sufficient evidence to support additional awards not shown on his DD Form 214, for the period ending on 16 January 1970, and will be listed

in the administrative notes. The Board will consider the applicant's request for correction of the applicant's DD Form 214 to show award of the Purple Heart.

5. A review of the applicant's service record shows:

a. He was inducted into the Army of the United States on 17 January 1968. He held military occupational specialty 11B, Light Weapons Infantryman.

b. DA Form 20 (Enlisted Qualification Record) shows:

(1) Item 31 (Foreign Service) shows he was assigned to USARPAC – Vietnam from 28 November 1968 to 9 January 1969.

(2) Item 38 (Record of Assignments) shows he received excellent conduct and efficiency ratings throughout his service (except while in a patient status. He was assigned as follows:

- 3 December 1968 he was assigned to Company A, 5th Battalion, 60th Infantry Regiment, 9th Infantry Division as a Rifleman (11B)
- 26 December 1968 he was listed as a patient at Medical Holding Detachment, 106th General Hospital in Yokohama, Japan
- 9 January 1969 he was listed as a patient at Medical Holding Company, Letterman General Hospital in San Francisco, California

(3) Item 40 (Wounds) shows "FW to abdomen & both legs" on 15 December 1968.

c. Special Orders Number 364, issued by Headquarters, United States Army Vietnam dated 29 December 1968 reassigned the applicant to the Medical Hospital Detachment, 106th General Hospital.

d. On 16 January 1970, he was released from active duty with an honorable characterization of service. His DD Form 214 shows he completed 2 years of active service. It also shows he was awarded:

- National Defense Service Medal
- Vietnam Campaign Medal
- Vietnam Service Medal
- 2 Overseas Service Bars
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)
- Expert Marksmanship Qualification Badge with Rifle Bar (M-16)

6. The applicant's name is 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.

7. There are no derogatory information on file that would have disqualified him from receiving his first award of the Army Good Conduct Medal.

8. By regulation:

a. There are three basic criteria for award of the Purple Heart: the Soldier must have been wounded as a result of hostile enemy action; the wound must have required treatment by medical officer; and the medical treatment must have been made a matter of official record.

b. There are basically three requirements for award of the Combat Infantryman Badge. The Soldier must be an infantryman satisfactorily performing infantry duties, he must be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and he must actively participate in such ground combat.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The applicant's DA Form 20 shows he received fragment wounds to his abdomen and legs in Vietnam on 15 December 1968. He provides a medical record confirming his injury required, and he received treatment. His name is listed on the Vietnam casualty roster, and he provides a certificate awarding him the Purple Heart. The Board determined this award should be added to his DD Form 214.

b. The evidence shows the applicant served on active duty from 17 January 1968 to 16 January 1970, completing 2 years of continuous active service. His conduct and efficiency ratings were excellent (except while in a patient status (unknown)), and there is no derogatory information on file to disqualify him from receiving the first award of the Army Good Conduct Medal.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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

- awarding him the Army Good Conduct Medal (1st Award) for service during the period 17 January 1968 through 16 January 1970
- adding award of the Purple Heart and the Army Good Conduct Medal (1st Award) to his DD Form 214

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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 applicant's service records contain evidence substantiating the following administrative corrections to the applicant's DD Form 214 without Board action:

- a. delete the Vietnam Service Medal.

b. add the following awards:

- Vietnam Service Medal with one bronze service star
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal – First Class 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 635-5 (Separation Documents), in effect at the time, states the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge. The information entered thereon reflects the conditions as they existed at the time of separation.

3. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:

a. Department of the Army General Orders 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation for service in Vietnam to the Headquarters, United States Army Vietnam and its subordinate units during the period 20 July 1965 to 28 March 1973.

b. Department of the Army General Orders 59, dated 1969, announced award of the Republic of Vietnam Civil Actions Honor Medal for service in Vietnam to the 5th Battalion, 60th Infantry Regiment.

c. A bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the Vietnam Counteroffensive Phase VI, from 1 June 1967 to 29 January 1968

4. AR 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. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

a. Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.

- b. Injury caused by enemy-placed trap or mine.
- c. Injury caused by enemy-released chemical, biological, or nuclear agent.
- d. Injury caused by vehicle or aircraft accident resulting from enemy fire.
- e. Concussion injuries caused as a result of enemy-generated explosions.

f. 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.

5. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. Paragraph 2-9 contains guidance on the burden of proof. It states, in pertinent part, that the ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

6. Army Regulation 672-5-1 (Awards), in effect at the time, stated the Army Good Conduct Medal was awarded for each 3 years of continuous enlisted active Federal military service completed on or after 27 August 1940; for first award only, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

//NOTHING FOLLOWS//