

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20230008845

APPLICANT REQUESTS: reconsideration of his previous request to be awarded the Purple Heart.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

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 AR20190010141 on 21 October 2021.
2. The applicant states he wishes to be awarded the Purple Heart for injuries that he sustained while in Vietnam.
3. A review of the applicant's service record shows:
 - a. He was inducted into the Regular Army on 18 June 1968.
 - b. His DA Form 20 (Enlisted Qualification Record) shows:
 - (1) He served in Vietnam from 17 December 1968 to 26 January 1969. He was assigned to Company B, 3rd Battalion, 47th Infantry Regiment, 9th Infantry Division on 26 December 1968.
 - (2) Item 40 (Wounds) is void of any entries.
 - c. In a memorandum dated 30 January 1969, he was dropped from the unit's strength report effective 21 January 1969 and reassigned to the United States Army Republic of Vietnam (USARV) Patient Casual Company.
 - d. His military record contains neither the Certificate of Award nor corresponding orders for the Purple Heart.

e. He was honorably transferred to the United States Army Reserve (USAR), on 19 December 1969. His DD Form 214 shows he completed 1 year, 7 months, and 2 days of active service. It also shows he was awarded or authorized:

- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- National Defense Service Medal
- Vietnam Campaign Ribbon with Device 1960
- Vietnam Service Medal with one bronze service star
- Expert Badge (M-14 Rifle)
- Expert Badge (M-16 Rifle)

4. By regulation, 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.

5. Also, by regulation 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.

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 applicant's 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 Board found no medical record showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. The Board recognized the memorandum dated 30 January 1969, showing the applicant was dropped from the unit's strength report effective 21 January 1969 and reassigned to the United States Army Republic of Vietnam (USARV) Patient Casual Company. However, the record is absent the nature of the applicant's injury regarding his reassigned.

2. The burden of proof rest on the applicant and the applicant provided no new evidence to support his 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. Based on this the Board found that a reversal on the previous request for award of the Purple Heart is unwarranted. Therefore, the Board denied relief.

3. 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.

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:

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 to amend the decision of the ABCMR set forth in Docket Number AR20190010141 on 21 October 2021.

3/19/2024

X

CHAIRPERSON

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.

REFERENCES:

1. 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.

The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct.

2. 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.

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

(1) Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.

(2) Injury caused by enemy-placed trap or mine.

(3) Injury caused by enemy-released chemical, biological, or nuclear agent.

(4) Injury caused by vehicle or aircraft accident resulting from enemy fire.

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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.

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

(1) Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951).

(2) Trench foot or immersion foot.

(3) Heat stroke.

(4) Food poisoning not caused by enemy agents.

(5) Chemical, biological, or nuclear agents not released by the enemy.

- (6) Battle fatigue.
- (7) Disease not directly caused by enemy agents.
- (8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.
- (9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.
- (10) Post traumatic stress disorders.
- (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example: ringing in the ears).
- (13) 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.
- (14) Abrasions and lacerations (unless of a severity to be incapacitating).
- (15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- (16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- (17) First degree burns.

3. AR 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.

//NOTHING FOLLOWS//