

IN THE CASE OF: ██████████

BOARD DATE: 21 March 2024

DOCKET NUMBER: AR20230008932

APPLICANT REQUESTS: in effect, to be awarded the Purple Heart for injuries sustained.

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statements
- Letter from Mr. ██████ (Ret Col) Addressed to Veterans Administration
- Email from Mr. ██████ (Ret Col), dated 24 May 2017
- Letter from Mr. ██████, dated 5 March 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 he was wounded in Vietnam during combat action when he was in command of an Infantry Company. The wounds were to his face and chest caused by shrapnel from an Improvised Explosive Device (IED). The wounds in his opinion were not severe enough to affect his ability to command. Due to the action continuing for an extended duration, he was attended to by the company medic (now deceased) who applied bandages to his wounds. There was confusion during and after the contact and he only went to the aid station when he returned to his base camp to have a medic give him an eye patch. He never considered that the medic never filed the required documentation.
3. The applicant provides:
 - a. A self-authored statement, which states:
 - (1) He was in command of B Company, 2nd Battalion 47th Infantry, 9th Infantry

Division of Republic of Vietnam in 1969 through 1970. In November of 1969, his company was assigned to relieve a sister unit that was engaged with elements of the First NVA Regiment.

(2) As they approached the point of contact, he deployed his troops and initiated movement to the wood line to engage the NVA troops. They were receiving fire as he was moving into the wood line. Once inside of the wood line a booby trap exploded to his right and he received shrapnel wounds to his right side of his face, chest, and right buttocks. The company medic was part of his Headquarters element and immediately went to his aid and started to examine the wounds and treat them. In his opinion, the wounds were not serious enough to merit any type of medevac as the company was engaged in a firefight. He chose to remain in command of the company rather than leave his command to an inexperienced Platoon Leader during a major enemy contact.

(3) The following day, he returned to the base camp and went to the battalion aid station where a medic checked his wounds, replaced the bandages, and gave him an eyepatch to cover the wound near his eye. The medic acknowledged the wounds were superficial and that he did not require any additional treatment; he did not meet with the battalion doctor. He was aware the wounds qualified for a Purple Heart but did not request any documentation for this action and thought the medical staff would submit the required paperwork.

(4) It was not until he had the opportunity at a reunion to meet his former Battalion Commander, Colonel (COL) [REDACTED], when he brought up the action and that he remembered the applicant receiving wounds from an explosive device. The COL was surprised that the applicant had not been awarded the Purple Heart and remembered seeing him with bandages and was aware that one of his company commanders was one of the wounded and was sorry that he did not follow-up on who was wounded.

(5) COL [REDACTED] stated that he should file to have a Purple Heart awarded. The applicant has attached what COL [REDACTED] remembers about the incident and the wounds that he received. Also, attached is a letter from the senior company medic detailing how common it was for medical treatment not to be submitted. The applicant requests the Board's consideration in awarding him the Purple Heart although it would be 52 years later.

b. A letter written by COL [REDACTED] that was addressed to the Veteran's Administration in Washington, District of Columbia regarding the applicant's wounds that he had suffered during one of their missions in Vietnam which is attached for the Board's review.

c. An email from COL [REDACTED] dated 24 May 2017, which details the conflict that caused the applicant's injuries which is available for the Board to review.

d. A letter from Mr. ■■■, dated 5 March 2023, addressed to the applicant which provides insight of the incident and injuries sustained to the applicant. The letter is attached for the Board to review.

4. A review of the applicant's records shows:

a. He was inducted into the Army of the United States on 5 November 1965 and honorable discharged on 16 December 1966 to accept a commission.

b. On 17 December 1966, he was commissioned and joined the United States Army.

c. DA Form 66 (Officer Qualification Record), item 18 (Record of Assignments) shows the following:

- On 10 June 1969, he was assigned to Headquarters and Headquarters Company, 3rd Brigade, 9th Infantry Division, Vietnam
- On 1 July 1969 he was assigned to Company B, 2nd Battalion, 47th Infantry, 3rd Brigade, 9th Infantry Division, Vietnam
- On 27 November 1969 he was assigned to Headquarters and Headquarters Company, 2nd Battalion, 47th Infantry, 3rd Brigade, 9th Infantry Division, Vietnam

d. On 4 May 1970, a medical examination was conducted/completed and there is no evidence of a reported injury listed regarding his claim.

e. The applicant's records are void of orders that show he was awarded the Purple Heart. His name does not appear in the Vietnam casualty roster.

f. DA Form 66, item 21 (Awards and Decorations), lists various awards authorized or awarded to the applicant; however, the Purple Heart is not listed.

g. On 8 May 1970, the applicant was honorably relieved from active duty. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) does not list the Purple Heart among his authorized awards.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. The Board found no documentary evidence confirming the applicant was wounded as a result of hostile action to a degree that required treatment by a medical officer. In the absence of such evidence, the Board determined it cannot confirm he met the criteria for the Purple Heart and it should not be awarded to him at this time.

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 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.

6/27/2024

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. 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 600-8-22 (Military Awards) prescribes the Army's awards policy. Paragraph 2-8 contains the regulatory guidance pertaining to award of the Purple Heart. It states that in order to establish entitlement to the Purple Heart there must be evidence that the wound for which the award is being made was received as a result of enemy action, that the wound required treatment by a medical officer, and that this medical treatment was made a matter of official record.

//NOTHING FOLLOWS//