

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2024

DOCKET NUMBER: AR20230008943

APPLICANT REQUESTS: reconsideration of the deceased former service member's (FSM) previous request for award of the Purple Heart (PH)

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

- DD Form 149 (Application for Correction of Military Record)
- Death Certificate of Deceased FSM
- Certificate of Marriage
- Birth Certificate of Applicant
- Two Photographs
- Department of Veterans Administration (VA) Letter, dated 8 June 1948
- VA Letter, dated 24 November 1948
- Letter of Support
- Honorable Discharge Certificate, dated 17 November 1945
- Veterans of Foreign Wars (VFW) Letter, dated 2 March 1946
- Form P-80b (Award of Disability Pension), dated 4 January 1946

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 AR20210016730 on 16 August 2022.

2. The applicant, the daughter of the deceased FSM, states after the FSM's death the family found documents referencing his time in the Army. A request to issue the PH was submitted 2 years ago by the FSM's daughter in order for the family to present the PH to the FSM's brother and grandchildren. The applicant's family feels that the awarding of the PH would be an honor to the service of the FSM. The applicant stated the FSM suffered many years due to pain in his heel from the gunshot wound but never gave in to the pain. The applicant provides:

- a. Two photographs, presumably representing the FSM as a member of the Army in 1944 and a picture of the FSM in present time.

b. A letter from the VA, dated 8 June 1948, with instructions for presenting an appeal to the administrator of the VA.

c. A letter from the VA, dated 24 November 1948, stating the FSM's claim for disability compensation has been reconsidered on the basis of a physical examination dated 23 August 1948 and statement of the doctor received 23 July 1948. According to the letter the reconsideration for claim increase in compensation payments was partially awarded.

d. A letter from the FSM explaining the extent of his injury in comparison to his disability compensation.

e. An Honorable Discharge Certificate for the FSM, issued at Madigan Hospital Center on 17 November 1945.

f. VFW letter wherein the author states in pertinent part, he received notice dated 4 January 1946, that the FSM had been service-connected for a gunshot wound, in the amount of 50 percent.

g. A Form P-80b, dated 4 January 1946, indicating the FSM was awarded a disability pension on account of disability resulting from gunshot wound to the right heel that held to have incurred or aggravated during his war service.

3. The FSM's records are not available to the Board for review. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center in 1973. It is believed his records were lost or destroyed in that fire. However, there were sufficient documents remaining in a reconstructed record to conduct a fair and impartial review of this case. This case is being considered using reconstructed records, which primarily consist of a WD AGO Form 53-55 (Enlisted Record and Report of Separation – Honorable Discharge).

4. A review of the FSM's record shows:

a. On 10 May 1943, the FSM was inducted into the Army of the United States and entered active duty on 18 May 1943.

b. On 17 November 1945, the applicant was honorably discharged from active duty.

c. The FSM's WD AGO Form 53-55, as amended by his DD Form 215 (Correction to DD Form 214) shows in:

- item 8 (Place of Separation): Madigan Hospital Center, Fort Lewis, WA

- item 31 (Military Qualification and Date): Combat Infantryman Badge, 19 February 1945
- item 32 (Battles and Campaigns): Rome Arno Campaign – Po Valley Campaign – N Apennines Campaign
- item 33 (Decorations and Citations): European African Middle Eastern Campaign Ribbon with three bronze stars, World War II Victory Medal, American Theater Ribbon, Bronze Star Medal
- item 34 (Wounds Received in Action) None
- item 36 (Service Outside Continental U.S. and Return): 11 October 1944 (Date of Departure), EAME Theater (Destination), 6 November 1944 (Date of Arrival); U.S. (Destination), 2 May 1945 (Date of Arrival)
- item 40 (Reason and Authority for Separation): Certificate of Disability for Discharge

d. The U.S. Army Hospitalization File Listing of 1945 shows the FSM was admitted on 13 March 1945 for a non-battle injury to his calcaneous bone. The cause/agent was a bullet/rifle and the circumstances included injury handling firearms, ammunition, etc. on post or in camp (cleaning gun, on range, etc. by patient or others).

5. On 16 August 2022, the ABCMR rendered a decision in Docket Number AR20210016730. The Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board found no medical record showing the applicant received wounds caused by enemy forces that required treatment by medical personnel.

6. By regulation, the criteria for an award of the Purple Heart requires the submission of substantiating evidence to verify the injury/wound was the result of hostile action, the injury/wound must have required treatment by personnel, and the medical treatment must have been made a matter of official record.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The available evidence shows the FSM served in European Theater of Operations, during World War II from around November 1944 to around May 1945. 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 evidence provided does not reflect the FSM has met the criteria for this award.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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 to amend the decision of the ABCMR set forth in Docket Number AR20210016730 on 16 August 2022.

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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.

REFERENCE:

1. Army Regulation 600-45 (Decorations) in effect at the time states the Purple Heart is awarded to members of the armed forces of the United States and to civilians who are citizens of the United States serving with the Army, who are wounded in action against an enemy of the United States, or as a direct result of an act of such enemy, provided such wound necessitates treatment by a medical officer. (For the purpose of awarding the Purple Heart, a wound is defined as an injury to any part of the body from an outside force, element, or agent sustained as the result of a hostile act of the enemy or while in action in the face of the enemy.)

2. Army Regulation 600-8-22 (Military Awards) currently in effect, provides that while clearly an individual decoration, the Purple Heart differs from all other decorations in that an individual is not recommended for the decoration; rather, they are entitled to it upon meeting specific criteria. The criteria is as follows:

a. The Purple Heart is awarded to any member of an Armed Force of the United States who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received under any of the following circumstances: In any action against an enemy of the United States; in any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged; as the result of an act of any such enemy or opposing armed force; as the result of an act of any hostile foreign force, and several other criteria. Other circumstances also include after 6 December 1941, as a result of friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, an opposing armed force, or hostile foreign force.

b. To qualify for award of the Purple Heart, the wound must have been of such severity that it required treatment, not merely examination, by a medical officer. A wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required. Treatment of the wound will be documented in the member's medical or health record. Award may be made for a wound treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

//NOTHING FOLLOWS//