

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2024

DOCKET NUMBER: AR20230009511

APPLICANT REQUESTS: award of the Purple Heart through his Member of Congress.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Standard Form 600 (Chronological Record of Medical Care), 19 January 1969

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 should be awarded the Purple Heart for injuries received in the Republic of Vietnam. He was only 19 years old and did not understand the war. He was too proud to receive the Purple Heart. Army personnel came to his mother's home to report his injury to her. He still has shrapnel embedded in his right forearm. After 50 years, it still hurts and is painful if he leans on it the wrong way. He would like to have the shrapnel removed once he is awarded the Purple Heart.
3. He was inducted into the Army of the United States on 15 February 1968.
4. Headquarters, U.S. Army Training Center, Fort Campbell, KY, Special Orders Number 87, 3 April 1968, awarded him the Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-14).
5. Headquarters, U.S. Army Training Center, Infantry and Fort Polk, Fort Polk, LA, Special Orders Number 129, 20 May 1968, awarded him the Marksman Marksmanship Qualification Badge with Rifle Bar (M-16).
6. He was awarded military occupational specialty (MOS) 11B (Light Weapons Infantryman) upon completion of initial entry training.

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

- item 31 (Foreign Service) – he received overseas tour credit for service in Vietnam from 21 July 1968 through 18 July 1969
- item 38 (Record of Assignments) –
 - he was assigned to Company B, 4th Battalion, 3d Infantry Regiment, 11th Infantry Brigade, as a rifleman and grenadier from 1 August 1968 through 13 July 1969
 - he received all "Excellent" conduct and efficiency ratings throughout his service
- item 39 (Campaigns) – Vietnam Counteroffensive Phase V, Vietnam Counteroffensive Phase VI, Tet 69 Counteroffensive 1969, Unnamed Campaign (Vietnam Summer-Fall 1969)
- item 40 (Wounds) – no entries

8. His Standard Form 600, 19 January 1969, notes he was treated at the 27th Surgical Hospital, Vietnam, for a grenade fragment wound to his right forearm sustained the previous night. X-rays reveal the fragmentation, no fracture. The diagnosis consisted of observation and he was discharged from the hospital.

9. The Western Union telegram from Major General K____ O. W____, The Adjutant General, 19 January 1969, informed his parents that he was slightly wounded in Vietnam on 18 January 1969 as a result of hostile action. He was serving on perimeter defense and while throwing a grenade at a suspected hostile enemy position, he was hit by a fragment from that grenade. He was treated and returned to duty. A message was attached to the telegram noting the same information.

10 Headquarters, Americal Division, Vietnam, General Orders Number 4597, 3 June 1969, awarded him the Air Medal for meritorious achievement while participating in aerial flight during the period 27 August 1968 through 17 May 1969.

11. His Official Military Personnel File is void of orders awarding him the Purple Heart for injuries sustained in the Republic of Vietnam.

12. His Official Military Personnel File is also void of orders awarding him the Army Good Conduct Medal (1st Award) or the Combat Infantryman Badge. His records are void of any derogatory or adverse information or a disqualification statement from his commander that would have precluded award of the Army Good Conduct Medal (1st Award).

13. He was honorably released from active duty on 13 February 1970 and transferred to the U.S. Army Reserve Control Group (Annual Training). He completed 1 year, 11 months, and 29 days of total active service during this period. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) shows in:

- item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) – Army Commendation Medal, National Defense Service Medal, Vietnam Service Medal with three bronze service stars, Republic of Vietnam Campaign Medal with Device (1960), National Defense Service Medal, 1st Class Gunner (now known as Sharpshooter) Marksmanship Qualification Badge with Machine Gun Bar (M-60), Sharpshooter Marksmanship Qualification Badge with Rifle Bar
- item 39 (Remarks) – Inclusive Dates of Service in Vietnam during Current Period of Service: 21 July 1968-18 July 1969

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was warranted. The applicant's contentions, his military records, and regulatory guidance were carefully considered. The applicant served in Vietnam from 21 July 1968 through 18 July 1969

a. The applicant's record contains a Western Union telegram, 19 January 1969, informing his parents that he was slightly wounded in Vietnam on 18 January 1969 as a result of hostile action. He was serving on perimeter defense and while throwing a grenade at a suspected hostile enemy position, he was hit by a fragment from that grenade. It also contains a Standard Form 600, 19 January 1969, noting he was treated at the 27th Surgical Hospital, Vietnam, for a grenade fragment wound to his right forearm sustained the previous night. X-rays reveal the fragmentation, no fracture. The Purple Heart is authorized to individuals wounded as a result of "friendly fire" in the "heat of battle" as long as the "friendly" projectile or agent was released with the full intent of inflicting damage or destroying enemy troops or equipment. Since the applicant's grenade was intended for the enemy, the Board determined there is sufficient evidence to show he met the criteria for award of the Purple Heart.

b. The applicant held an infantry MOS and was assigned to an infantry unit in Vietnam. The Western Union telegram shows he was wounded in Vietnam on 18 January 1969 as a result of hostile action. He was serving on perimeter defense and while throwing a grenade at a suspected hostile enemy position, he was hit by a fragment from that grenade. He was clearly engaged by the enemy as evidenced by the injury sustained as he threw a grenade towards the enemy. The Board determined he meets the criteria for award of the Combat Infantryman Badge.

c. The applicant served on active duty from 15 February 1968 to 13 February 1970. He completed 1 year, 11 months, and 29 days of total active service during this period. He received all "Excellent" conduct and efficiency ratings throughout his service. His record is void of any disqualifying factor that prevents him from receiving his first award of the Army Good Conduct Medal. The Board determined he meets the criteria for award of the Army Good Conduct Medal (1st Award).

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

In addition to the correction addressed in Administrative Note(s) below, 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 by:

- awarding him the Purple Heart for wounds received in action in Vietnam on 18 January 1969
- awarding him the Combat Infantryman Badge on 18 January 1969
- awarding him the Army Good Conduct Medal for service during the period 15 February 1968 through 13 February 1970
- adding to his DD Form 214 the Purple Heart, Combat Infantryman Badge, and Army Good Conduct Medal (1st Award)

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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 is authorized administrative correction of his DD Form 214 for the period ending 13 February 1970 to show the following awards without Board action:

- Air Medal
- Vietnam Service Medal with four bronze service stars
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)

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 Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. 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. When contemplating eligibility for the Purple Heart, the two critical factors commanders must consider is the degree to which the enemy or hostile force caused the wound and whether the wound was so severe that it required treatment by a medical officer.

(1) A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed below. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer provided a medical officer includes a statement in the service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

(2) The key issue commanders must take into consideration when contemplating an award of this decoration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite, but is not sole justification for award.

(3) Examples of enemy-related injuries which justify award of the Purple Heart are as follows:

- injury caused by enemy bullet, shrapnel, or other projectile created by enemy action
- injury caused by enemy-placed trap or mine
- injury caused by enemy-released chemical, biological, or nuclear agent
- injury caused by vehicle or aircraft accident resulting from enemy fire
- concussion injuries caused as a result of enemy-generated explosions
- 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

(4) Examples of injuries or wounds which do not justify award of the Purple Heart are as follows:

- frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- trench foot or immersion foot
- heat stroke
- food poisoning not caused by enemy agents
- chemical, biological, or nuclear agents not released by the enemy
- battle fatigue
- disease not directly caused by enemy agents
- accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action
- self-inflicted wounds, except when in the heat of battle and not involving gross negligence
- post-traumatic stress disorder
- airborne (for example, parachute/jump) injuries not caused by enemy action
- hearing loss and tinnitus (for example, ringing in the ears)
- 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
- abrasions and lacerations (unless of a severity to be incapacitating)

- bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- soft tissue injuries (for example, ligament, tendon, or muscle strains, sprains, and so forth)
- first degree burns

b. The Combat Infantryman Badge is awarded to infantry or special forces officers and enlisted and warrant officer persons who have an infantry or special forces MOS. They must have served in active ground combat while assigned or attached to an infantry, ranger, or special forces unit of brigade, regimental, or smaller size. Specifically, a recipient must be personally present and under hostile fire while serving in an assigned infantry or special forces primary duty in a unit actively engaged in ground combat with the enemy. Battle or campaign participation credit alone is not sufficient; the unit must have been in active ground combat with the enemy during the period. Personnel with other than an infantry or special forces MOS are not eligible, regardless of the circumstances. A Soldier must meet the following three requirements for award of the Combat Infantryman Badge: (1) be an infantryman satisfactorily performing infantry duties, (2) be assigned to an infantry unit during such time as the unit is engaged in active ground combat, and (3) actively participate in such ground combat.

3. 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 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. There must have been no convictions by court-martial.

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam. Department of the Army General Orders Number 2, 1971, confirmed award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to 4th Battalion, 3d Infantry Regiment, for the period 2 November 1968 through 28 February 1969.

//NOTHING FOLLOWS//