

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 March 2024

DOCKET NUMBER: AR20230009828

APPLICANT REQUESTS:

- Correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) by adding his already awarded Purple Heart and Silver Star
- Add all authorized service medals to his DD Form 214
- Permission to appear personally before the Board, via video/telephone

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

- DD Form 149 (Application for Correction of Military Record)
- Letter of Commendation
- Applicant's statement of events
- Blackhorse Hoofbeats Newspaper
- "Where's Charlie, Memories from a Time of War, 1965-68"
- Photos of the applicant's uniforms
- Department of Veterans Affairs (VA) letter

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10 (Armed Forces), United States Code (USC), section 1552 (b) (Correction of Military Records: Claims Incident Thereto). 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, in effect, the injustice is that he earned the Purple Heart during the Vietnam War. "The Purple Heart is the highest military honor available and (it) is not listed on my DD 214." The applicant adds that the Silver Star and additional service awards are also missing.

a. The applicant maintains he should be placed in "Priority Group #1," but this has not happened. Additionally, he has not been able to secure important civilian benefits, such as license plates and identification cards.

b. The applicant discloses he is not well, and that the VA has awarded him a service connected disability rating of 100 percent; he is battling prostate cancer and the error in his records is "making my rating and ranking extremely difficult, as many decisions for my current state (are) based off my incorrect DD 214 from years ago."

c. In a self-authored statement, the applicant adds the following:

(1) After graduating from high school, he worked as a printer/typesetter and took a class at a local university; in September 1966, the Army inducted him and, after initially arriving at Fort Knox, KY, they sent him to Fort Campbell, KY for basic combat training (BCT). In December 1966, his older brother was killed while on active duty; he thinks his parents never recovered from that loss.

(2) For advanced individual training (AIT) in military occupational specialty (MOS) 11B (Light Weapons Infantryman), they bused him to Fort Polk, LA (later renamed Fort Johnson). The cadre there had set up what they called "Tigerland," which was Vietnam-styled jungle training.

(3) While on Christmas leave, he went back home and married his "one and only bride"; they remain happily married to this day. In January 1967, he returned to Fort Polk and completed AIT; by February 1967, he was in Vietnam and assigned to the 2nd Battalion, 5th Cavalry Regiment, 1st Cavalry Division (Airmobile). By day, he underwent "In Country Training," and at night, he stood guard; on 28 February 1967, he joined his company.

(4) On 11 March 1967, after having already participated in several air assaults, the applicant's squad and two other platoons were sent on a mission to Phú Ninh; while there, they became pinned down by enemy fire; (the applicant points the reader to the Blackhorse Hoofbeats Newspaper for a more complete accounting of events).

(a) As the fire fight broke out, they sought cover in a 5-foot ditch/dried streambed; the applicant and his squad were all bunched together in a single file. One Soldier (████) asked the applicant to hand him a machete, and at that moment, small arms fire erupted, instantly killing █████ and wounding the applicant and several others; the applicant sustained a shrapnel wound to his ankle.

(b) The applicant notes that they had numerous fire fights and battles after that, and, unfortunately, he lost three more platoon members, but those other battles were nothing like happened on 11 March. The applicant goes on to describe additional experiences and identifies instances where he was likely exposed to Agent Orange and incurred a back injury as a result of a vehicle accident.

(c) The applicant continued his Vietnam service until they sent him home, on 12 February 1968. Orders subsequently assigned him to Fort Campbell, where he acted as the first sergeant for an infantry company, and he describes how they put him in charge of 150 uncooperative Vietnam Veterans; having his unit placed on "riot control"; and observing that a riot actually broke out on post while he was there. They ultimately split up the applicant's unit and sent him to teach in a Reserve Officers' Training Corps course. In August 1968, he returned to Fort Campbell and "DD-214 out of the Army on August 29, 1968."

3. The applicant provides documents from his service record, a VA letter, photos of his uniforms, and the additional documents listed below:

a. Blackhorse Hoofbeats newspaper, Issue #5, dated 26 March 1967, describes the 11 March 1967 attack cited above by the applicant; the headline states, "On March 11th, C and D Companies, 2/5 Cav established contact with a heavily entrenched enemy of unknown size in the Nui Mieu mountains south of Bong Son-LZ (landing zone) English during Operation Pershing conducted by the Cav's 2d Brigade." The article further notes the applicant sustained a shrapnel wound.

b. "Where's Charlie, Memories from a Time of War, 1965-68," written by Mr. [REDACTED] the memoir "tells the story of a boy who becomes a man during war while serving as an officer in Vietnam."

(1) In the included pages, the applicant has highlighted his name each time it appears in the text. The author offers details of an attack in which the applicant and another Soldier were manning a machine gun; at one point, the applicant and the other Soldier observed a column of North Vietnamese Army (NVA) Soldiers approaching their location.

(2) The applicant directed machine gun fire at the NVA column, and, although most of the NVA Soldiers dropped to the ground or scattered into the bush, two NVA were able to reach the machine gun pit. While the applicant continued to concentrate fires on the NVA in front of him, the other Soldier engaged the two NVA Soldiers in a fist fight and forced them to flee.

(3) The author states the command awarded the Silver Star to the applicant and the Soldier with the applicant, while the author and a different Soldier who was also present received the Bronze Star Medal.

c. VA letter dated 20 March 2023, which notifies the applicant that, while his combined disability rating was initially increased from 10 percent to 100 percent, due to prostate cancer with irritable bowel syndrome, the VA now proposed a decrease to 0 percent because the cancer was in remission.

4. A review of the applicant's service record reveals the following:

a. On 2 September 1966, the Army of the United States (AUS) inducted the applicant for a 2-year term of active duty service. Upon completion of initial entry training and the award of military occupational specialty 11B (Light Weapons Infantryman), orders transferred him to Vietnam, and he arrived in country, on 17 February 1967. On 24 February 1967, the applicant reported to his new unit, the 2nd Battalion, 5th Cavalry Regiment, 1st Cavalry Division (Airmobile).

b. On 19 February 1968, 1st Cavalry Division (Airmobile) General Orders awarded the applicant the Air Medal (1st Award) for meritorious achievement while participating in aerial flight, during the period March 1967 to February 1968. On 12 February 1968, the applicant completed his tour in Vietnam, and orders reassigned him to an infantry unit at Fort Campbell; he arrived at his new unit, on 18 March 1968.

c. The Letter of Commendation provided by the applicant indicates that, for the period 10 June to 9 August 1968, he participated in an ROTC Advance Camp as a lane grader for the "ambush patrol problem."

d. On 30 August 1968, the AUS honorably released the applicant from active duty and transferred him to the U.S. Army Reserve. His DD Form 214 shows he completed 1 year, 11 months, and 29 days of his 2-year AUS active duty requirement. The report additionally reflects the following:

(1) Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized):

- Army Commendation Medal
- National Defense Service Medal
- Vietnam Service Medal
- Combat Infantryman Badge
- Two marksmanship qualification badges
- One overseas service bar
- Republic of Vietnam Campaign Medal with Device (1960)

(2) Item 30 (Remarks): The applicant's Vietnam service is not listed.

e. The applicant's available service record contains no derogatory information; in addition DA Form 20 (Enlisted Qualification Record) reflects the following:

- Item 33 (Appointments and Reductions) – applicant's leadership progressively promoted him, and he attained the rank/grade of sergeant (SGT/E-5); no entries show a reduction in rank

- Item 38 (Record of Assignments – Conduct/Efficiency) – the applicant received "Excellent" rating throughout his term of active duty
- Item 40 (Wounds) – No wounds are reflected
- Item 41 (Awards and Decorations) – Neither the Purple Heart nor the Silver Star are listed

5. The Vietnam Casualty Roster is a listing of Vietnam-era casualties commonly used to verify the entitlement to the award of the Purple Heart; the applicant is not on this roster.

6. A review of the Awards and Decorations Computer-Assisted Retrieval System, an index of general orders issued during the Vietnam era between 1965 and 1973 and maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any general orders awarding the applicant either the Purple Heart or the Silver Star.

7. Army Regulation (AR) 600-8-22 (Military Awards), currently in effect, prescribes policies and procedures for military awards.

a. Regarding the Purple Heart, the regulation states:

(1) The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army 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
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party
- As the result of an act of any such enemy or opposing Armed Forces
- As the result of an act of any hostile foreign force
- After 28 March 1973, as a result of military operations while serving outside the territory of the United States as part of a peacekeeping force

(2) To qualify for the Purple Heart, the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.

- A medical professional is defined as a civilian physician or a physician extender; physician extenders include nurse practitioners, physician

assistants, and other medical professionals qualified to provide independent treatment

- 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.
- Additionally, the wound's treatment must be documented in the Soldier's medical records

b. The Silver Star is awarded for gallantry in action against the enemy. The required gallantry (spirited and conspicuous acts of heroism and courage) must have been performed with marked distinction. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

8. AR 15-185 (ABCMR), currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

b. An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

#### 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 applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The evidence of record did not contain nor did the applicant provide a copy of official orders awarding him the Purple Heart. Additionally, there is insufficient evidence of record to show he met the regulatory requirement for award of the Purple Heart; there is no clear evidence he was wounded as a result of hostile enemy action, that his wounds required treatment by a medical officer, and that said treatment was made a matter of official record.

3. The Silver Star, like all personal decorations, requires a formal recommendation, approval by the chain of command, and announcement in official orders. The evidence

of records failed to show the applicant was recommended for or awarded the Silver Star.

4. As a separate matter, the Board found the applicant received all excellent conduct and efficiency ratings and found no nothing in his record to disqualify him from the Army Good Conduct Medal (1st Award) for the period 2 September 1966 to 30 August 1968 disqualifying. As such, he should be awarded the Army Good Conduct Medal (1st Award) and this award should be added to his DD Form 214.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board concurs with the corrections addressed in Administrative Note(s) below, but 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 for correction of the records of the individual concerned.

2. The Board determined, as a separate issue, the applicant met the criteria for award of the Army Good Conduct Medal. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding him the Army Good Conduct Medal (1st Award) for the period 2 September 1966 to 30 August 1968, and correcting his DD Form 214 ending 30 August 1968 to add this award.

6/6/2024

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.

ADMINISTRATIVE NOTE(S): made the below administrative corrections to his DD Form 214 ending 31 August 1988:

- a. Item 24: delete Vietnam Service Medal and add the following:
  - Air Medal (1st Award)
  - Vietnam Service Medal with three bronze service stars
  - Republic of Vietnam Gallantry Cross with Palm Unit Citation
- b. Item 30: "Service in Vietnam from 17 February 1967 to 12 February 1968."

REFERENCES:

1. Title 10, USC:

a. Section 1130 (Consideration of proposals for decorations not previously submitted in timely: Procedures for Review), states an award recommendation, with supporting documentation, must first be sent through a Member of Congress, then, in the case of the U.S. Army, to the U.S. Army Human Resources Command (HRC) for subsequent consideration by the Secretary of the Army.

b. 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. AR 672-5-1, in effect at the time, prescribed policies and procedures for military awards; it 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 the first award only, commanders could award the Army Good Conduct Medal, upon termination of the Soldier's service on or after 27 June 1950, if he or she had served less than 3 years but more than 1 year. Additionally, the Soldier had to have had all "Excellent" conduct and efficiency ratings and no court-martial convictions.

3. Army Regulation (AR) 600-8-22 (Military Awards), currently in effect, prescribes policies and procedures for military awards.

- a. Regarding the Purple Heart, the regulation states:

(1) The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of



the Secretary of the Army 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
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party
- As the result of an act of any such enemy or opposing Armed Forces
- As the result of an act of any hostile foreign force
- After 28 March 1973, as a result of military operations while serving outside the territory of the United States as part of a peacekeeping force

(2) To qualify for the Purple Heart, the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.

- A medical professional is defined as a civilian physician or a physician extender; physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment
- 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.
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b. The Silver Star is awarded for gallantry in action against the enemy. The required gallantry (spirited and conspicuous acts of heroism and courage) must have been performed with marked distinction. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

c. Chapter 3 (U.S. Army Individual Decorations) and Appendix F (Initial Consideration/Reconsideration of an Award through a Member of Congress), offers instructions for an award recommender (normally someone other than recipient of the award) to do the following:

(1) Complete a DA Form 638 with the proposed citation and an award narrative for, in this case, the Silver Star.

(2) Narratives for valor or heroism should read as an executive summary of the valorous action. They must be factual, concise, corroborated by supporting documentation; in addition they should include a description of the terrain, weather,

enemy conditions, actions of comrades in the vicinity, the degree to which the actions were voluntary, and the degree to which the actions exceeded what was normally expected of an individual in the same circumstance.

(3) Valor or heroism recommendations must also include eyewitness statements (if available, use DA Forms 7791 (Eyewitness Statement (for Valor/Heroism), or, alternatively, notarized sworn affidavits). The eyewitness statements must be firsthand accounts of the observed actions and, to the best of the witness's ability, they should state the witness's position in relation to the recommended Soldier, the witness's duties, the mission of the witness's unit, and the date-time-location of the valorous actions.

(4) The narrative should additionally contain extracts from official records, sketches, maps, diagrams, photographs, all of which support the narrative summary.

(5) After completing the award recommendation and accumulating the supporting documentation, the award recommender must then contact and obtain recommendations from the wartime chain of command that was in effect when the recommended former Soldier performed the heroic actions. If all efforts to locate those former commanders are unsuccessful (perhaps because they are deceased or could not be found), the recommender must detail the steps taken and state the final results those steps. At minimum, an endorsement by at least one living member of the chain of command (not the recommender) is required to enter the recommendation into military channels and to corroborate the validity of the documents provided.

(6) Once the above-stated actions have been completed, the award recommender forwards the completed Silver Star packet to the member of Congress, who, in turn, transmits the packet to HRC for review by the Award and Decoration Board (ADB). It should be noted, however, that the ADB will not consider the recommendation unless it complies with the criteria laid out in AR 600-8-22 (and as identified above). Further, the ADB has the authority to disapprove or downgrade the award being recommended.

4. AR 635-5 (Separation Documents), in effect at the time, stated the DD Form 214 was to list all decorations, service medals, campaign credits, and badges awarded or authorized. Additionally, change 11, effective January 1970, required the DD Form 214 to show a separating Soldier's Vietnam service in remarks.

5. AR 600-8-22, currently in effect, states the Vietnam Service Medal is awarded to all members of the Armed Forces of the United States based on their qualifying service in Vietnam after 3 July 1965 through 28 March 1973. A bronze service star will be awarded for wear on the Vietnam Service Medal for the Soldier's participation in each recognized campaign; Vietnam campaigns include the following:

- Counteroffensive, Phase II (1 July 1966 to 31 May 1967)
- Counteroffensive, Phase III (1 June 1967 to 29 January 1968)
- Tet Counteroffensive (30 January 1968 to 1 April 1968)

6. Department of the Army Pamphlet (DA PAM) 672-3 (Unit Citation and Campaign Participation Credit Register) shows Department of the Army General Order (DAGO) Number 8, dated 1974, awarded all units that served in Vietnam the Republic of Vietnam Gallantry Cross with Palm Unit Citation.

7. AR 15-185 (ABCMR), currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary). The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

b. An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

//NOTHING FOLLOWS//