

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 October 2024

DOCKET NUMBER: AR20230010007

APPLICANT REQUESTS: to be awarded the Purple Heart and Combat Infantryman Badge.

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

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, in effect:

a. According to the Department of Veterans Affairs (VA), he should have been awarded a Purple Heart. So, he would like this added to his DD Form 214 (Certificate of Release or Discharge from Active Duty). He further states, the VA has proof to support this claim in their files and more evidence can be found amongst the records at the Fort Gordon Medical Center where he was treated. His Combat Infantryman Badge (CIB) is not showing up on his latest copy of his DD Form 214, which he would also like added as well.

b. During combat operations in Afghanistan, he served with C Company 1st Battalion, 121st Infantry. He came under fire, returned fire, and was injured and medically evacuated (MEDEVAC) out of the country. He was treated for his injuries and was retired from the Fort Gordon Wounded Warrior Transition Battalion from 2010 to 2011. His service records, retirement type, and deployments are on record with the Department of Defense, which can be found within his records at the VA and the Fort Gordon Medical Center. He did not see his unit again. Furthermore, his CIB and Purple Heart were never submitted nor added to his DD Form 214.

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

a. He enlisted in the Army National Guard on 24 February 2004 for a period of eight (8) years. He completed initial entry training from 28 June to 18 August 2006 and he was awarded military occupational specialty 19K, Armor Crewman. His DD Form 214 for this period of initial entry training shows:

- National Defense Service Medal
- Army Service Ribbon

b. He entered active duty on 27 March 2009 and served in Afghanistan from 17 May 2009 to 15 January 2010 in MOS 11B (Infantryman) assigned to Company C, 1st Battalion, 121st Infantry.

c. U.S. Army Human Resources Command orders A-02-004639, dated 10 February 2010, reflects the applicant was retained on active duty for the purpose of participating in Reserve Component Warriors in transition medical retention processing program for completion of medical care and treatment, with a report date of 10 February 2010.

d. On 20 December 2010, an informal physical evaluation board convened and found the applicant medically unfit for two conditions:

(1) Right ulnar nerve paresis (cubital tunnel symptom) status post nerve decompression in March 2010 manifested by residual pain in the right elbow and weakness in the 4th and 5th digits, status post blast injury in November 2009 in Afghanistan in which he reported hitting his right elbow against the turret of the MRAP he was riding in when it was struck by an RPG. Condition rated at 30%.

(2) Migraine headaches onset in January 2010. Condition rated at 30%.

e. The PEB recommended a combined rating of 50% and that his disposition be permanent disability retirement. The applicant concurred and waived a formal hearing of his case.

f. Headquarters, U.S. Army Signal Center of Excellence orders 033-0903, dated 2 February 2011, reflects the applicant was released from assignment and duty because of physical disability incurred while entitled to basic pay and under conditions that permit his retirement for permanent physical disability, with an effective date of retirement of 4 April 2011.

g. He retired on 4 April 2011 and he was placed on the retired list in his retired grade of specialist/E-4 on 5 April 2011. His DD Form 214 shows he was awarded or authorized:

- Afghanistan Campaign Medal with campaign star
- National Defense Service Medal
- Global War on Terrorism Service Medal
- Army Service Ribbon
- Overseas Service Ribbon
- Armed Forces Reserve Medal with M device

h. State of Georgia Office of The Adjutant General orders 257-001, dated 14 September 2011, reflects the applicant was honorably discharged from the Army National Guard, with an effective date of 4 April 2011.

5. by regulation (AR 600-8-22) the criteria for award of the Purple Heart require it to be awarded to Soldiers for wounds or injuries received as a result of enemy action. The wounds must have required treatment by medical personnel and made a matter of official record. Official documentation reflecting medical treatment for the wounds or injuries must be provided.

6. By regulation (AR 600-8-22) to be awarded the Combat Infantryman Badge, the Soldier must meet the following three requirements: Be an infantryman satisfactorily performing infantry duties; assigned to an infantry unit during such time as the unit is engaged in active ground combat, and actively participate in such ground combat. Campaign or battle credit alone is not sufficient for award of the CIB

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.

a. Purple Heart: Deny. 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 applicant's PEB shows he hit his right elbow against the turret of the MRAP he was riding in when it was struck by an RPG. The injury was caused by the turret. Additionally, no medical records are provided by the applicant to show the turret injury required treatment. The applicant contends that the VA and Fort Gordon have medical records that support his request. The Board did not accept his argument because the burden of proof rests with the applicant. Therefore, the Board found insufficient evidence to support awarding the Purple Heart in this case.

b. Combat Infantryman Badge: Deny. The Combat Infantryman Badge is awarded to infantry of special forces persons who have an infantry MOS, they must have served

in active ground combat while assigned or attached to an infantry unit of brigade, regimental or smaller size. The applicant held an infantry MOS in Afghanistan and was assigned to an infantry unit. However, the Board did not find documentary evidence of at least one encounter where the applicant actively participated in the ground combat while assigned to that during such time as the unit is engaged in active ground combat. Therefore, the Board found insufficient evidence to support awarding the Combat Infantryman Badge in this case.

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 for correction of the records of the individual concerned.

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, United States 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 (AR) 600-8-22 (Military Awards) prescribes Department of the Army (DA) policy, criteria, and administrative instructions concerning individual and unit military awards

a. Award of the Combat Infantryman Badge (CIB), a Soldier must meet the following three requirements: Be an infantryman satisfactorily performing infantry duties; Assigned to an infantry unit during such time as the unit is engaged in active ground combat; and actively participate in such ground combat. Campaign or battle credit alone is not sufficient for award of the CIB

b. 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 medical personnel, and the medical treatment must have been made a matter of official record. Examples of enemy-related injuries include injury caused by enemy bullet, shrapnel, or other projectile created by enemy action; injury caused by enemy placed mine or trap; injury caused by enemy released chemical, biological, or nuclear agent; injury caused by vehicle or aircraft accident resulting from enemy fire; and/or concussion injuries caused as a result of enemy generated explosions.

//NOTHING FOLLOWS//