

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 May 2024

DOCKET NUMBER: AR20230010493

APPLICANT REQUESTS: correction of his record to show he was awarded the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge), 27 August 1969

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 pertinent part that during the Vietnam War, he was involved in a firefight while returning to Chu Lai. During this event he served as a door gunner and lost a portion of his finger when his weapon exploded while returning fire.

3. A review of the applicant's available service records reflects the following:

a. On 20 December 1963, the applicant enlisted in the Kansas Army National Guard (ARNG) for 6 years.

b. On 2 April 1964, the applicant was ordered to active duty to complete Basic Combat Training.

c. On 26 August 1964, the applicant was released from active duty.

d. On 13 May 1968, the applicant was ordered to active duty with duty as a 76M (Ammunitions Records Clerk). During the subsequent period of active duty, the applicant served in the Republic of Vietnam with the 176th Aviation Company for 3 months and 4 days.

e. On 27 August 1969, the applicant was honorably released from active duty and returned to state control as a member of the ARNG to complete his remaining service obligations of 4 months. DD Form 214, Item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized) reflects:

- Vietnam Service Medal
- National Defense Service Medal
- One Overseas Service Bar

f. On or about 16 December 1969, the applicant was released from the ARNG.

4. The applicant did not provide nor does a review of his available service record reflect evidence to support an injury (as a result of hostile action) or treatment for such injury. 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 maintained by the U.S. Army Human Resources Command, failed to reveal any orders for a Purple Heart pertaining to the applicant. Lastly, the applicant's name is not reflected on the Vietnam casualty listing. This is a listing of Vietnam era casualties commonly used to verify entitlement to award of the Purple Heart.

#### 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 applicant served in Vietnam with the 176th Aviation Company for 3 months and 4 days. There are no orders that show the applicant was awarded the Purple Heart. Additionally, in order to be awarded the Purple Heart, 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. In order to determine such eligibility, medical documentation describing both diagnosis and treatment of injuries caused by the enemy immediately after, or close to the incident date and signed or endorsed by a medical professional in accordance with Army Regulation 600-8-22, are required. The Board reviewed and did not find documentation to support award of the Purple Heart.

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.

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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.

REFERENCES:

1. Title 10, USC, 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 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.

b. Examples of enemy-related injuries which clearly justify award of the Purple Heart are injuries caused by enemy bullet, shrapnel, or other projectile created by enemy action; injuries caused by an enemy-placed mine or trap; injuries caused by enemy-released chemical, biological, or nuclear agents; and injuries caused by a vehicle or aircraft accident resulting from enemy fire.

3. AR 672-5-1 (Awards), in effect at the time states the Purple Heart is awarded for a wound sustained while in action against an enemy or as a result of hostile action. Substantiating evidence must be provided to verify that 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.

4. AR 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//