

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 May 2024

DOCKET NUMBER: AR20230010865

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), for the period ending 25 November 1968, to show award of the:

- Purple Heart
- Combat Infantryman Badge

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) Rating Decision, dated 16 July 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 was awarded the Purple Heart and Combat Infantryman Badge. He is currently receiving VA benefits and needs his DD Form 214 corrected.
3. The applicant provides a VA Rating Decision, dated 16 July 1969, which shows, in pertinent part, he is receiving service-connection compensation for loss of ring finger left hand. The form shows "he served in Vietnam but does not show that he received a [P]urple [H]eart." Additionally, is states the injury occurred during his first tour of duty in Vietnam as he had a second tour later.
4. A review of the applicant's service record shows:
 - a. Having prior service in the U.S. Navy, he enlisted in the Regular Army on 25 November 1965.

b. He served in Vietnam from 8 June 1966 to 8 June 1967 and from 13 February 1968 to 12 August 1968.

c. He was honorably transferred to the U.S. Army Reserve on 25 November 1968. His DD Form 214 for this period shows he completed 3 years of active duty service. It also shows in:

- item 23a (Specialty Number & Title): 94B2P (Cook)
- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): National Defense Service Medal, Parachutist Badge, Vietnam Service Medal, Vietnam Campaign Medal

d. On 31 July 1973, he again enlisted in the Regular Army.

e. He was honorably discharged on 1 May 1977 for immediate reenlistment. His DD Form 214 (Report of Separation from Active Duty) for this period shows he completed 3 years, 9 months, and 1 day of active duty service. It also shows in:

- item 16a (Primary Specialty Number and Title): 94B4P (Food Service Specialist), 31 July 1973
- item 26 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): National Defense Service Medal, Parachutist Badge, Vietnam Campaign Medal, Vietnam Service Medal, Good Conduct Medal, and three overseas service bars

f. He enlisted in the Regular Army on 2 May 1977.

g. He served in Germany from 24 October 1980 to 18 May 1984.

h. He was honorably retired on 31 October 1987. His DD Form 214 (Certificate of Release or Discharge from Active Duty), as amended by his DD Form 215 (Correction to DD Form 214) for this period shows he completed 10 years, 5 months, and 29 days of active duty service. It also shows in:

- item 11 (Primary Specialty Number, Title and Years and Months in Specialty): 94B40 (Food Service Specialist), 19 years and 9 months, Veterinary Food Inspection Specialist, 12 years and 7 months
- item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized):
 - Army Commendation Medal
 - Good Conduct Medal with bronze, 5 loops
 - National Defense Service Medal

- Vietnam Service Medal with one silver and one bronze service stars
- Noncommissioned Officer Professional Development Ribbon (Numeral 3)
- Army Service Ribbon
- Overseas Service Ribbon with numeral 2
- Republic of Vietnam Campaign Medal
- Republic of Vietnam Gallantry Cross Unit Citation Badge (with Palm)
- Sharpshooter Badge (Rifle)
- Parachutist Badge
- Army Achievement Medal

5. On 4 January 2010, the U.S. Army Human Resources Command Military Awards Branch notified the applicant by letter in response to his letter to the National Personnel Records Center (NPRC) concerning his desire to obtain an award of the Purple Heart for injuries he received during his service in the Republic of Vietnam.

a. The criteria for award of the Purple Heart require it to be awarded to Soldiers for wounds or injuries received as a direct result of enemy action. The wounds must have required treatment by medical personnel and been made a matter of official record. Official documentation reflecting medical treatment must be provided.

b. We reviewed historical casualty records for the Vietnam era and regrettably, did not find your name among the list of battle casualties. Unfortunately, a VA rating decision is insufficient because not all service-connected disabilities are the result of enemy action. Without evidence that you were treated for wounds received as a result of enemy action and that your injuries were made a matter of official record, award of the Purple Heart cannot be authorized.

c. Verification of entitlement may be possible by conducting a review of unit morning reports for the period in question. To obtain these reports, you must specifically request them and should provide detailed information concerning your injuries to NPRC.

6. There are no orders on file that show he was awarded the Combat Infantryman Badge. Likewise, there is no verifiable documented evidence in his service records, such as special orders, a declassified operation order, after action report, or other evidence, showing he held an infantry military occupational specialty, was assigned/attached to an infantry unit, or was personally present and actively participated in ground combat with his infantry unit during such time as the unit was engaged in active ground combat.

7. The applicant's record is void of entries of an injury or wound as a result of hostile action or that he was awarded the Purple Heart. Additionally, the Vietnam casualty roster is a listing of Vietnam-era casualties commonly used to verify entitlement to award of the Purple Heart; it does not show the applicant was wounded in action.

8. By regulation:

a. The award of the Purple Heart requires the recipient to fulfill the following criteria: the wound or injury must be the result of hostile action with an enemy, the wound or injury must have required medical treatment, and the medical treatment must have been made a matter of official record.

b. To be awarded the Combat Infantryman Badge, the recipient must meet the following criteria:

- be an infantryman satisfactorily performing infantry duties
- assigned to an infantry unit during such time as the unit is engaged in active ground combat
- actively participate in such ground combat; campaign or battle credit alone is not sufficient

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 Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation.

a. The Board determined 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 Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of the Purple Heart.

b. The evidence of record shows the applicant held military occupational specialty (MOS) 94B (Cook). The applicant served in Vietnam from 8 July 1966 to 8 June 1967 and from 13 February 1968 to 12 August 1968. The Board determined he does not meet the criteria for award of the Combat Infantryman Badge since he did not hold an infantry MOS and was not assigned to an infantry unit and/or served in active ground combat while assigned or attached to an infantry unit of brigade, regimental or smaller size.

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, 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. U.S. Army Vietnam (USARV) Regulation 672-5-1 (Decorations and Awards), in effect at the time, prescribed policies, responsibilities, and criteria for awards to insure prompt and proper recognition of individuals. The regulation states, in part:

a. The Purple Heart may be awarded to U.S. personnel who are wounded or killed in action as a direct result of enemy action. A wound for which the award is made must have required treatment by a medical officer and records of medical treatment for wounds or injuries received must have been made a matter of official record.

b. Authority to award the Purple Heart was delegated to hospital commanders. Further, it directed that all personnel treated and released within 24 hours would be awarded the Purple Heart by the organization to which the individual was assigned. Personnel requiring hospitalization more than 24 hours or evacuation from Vietnam would be awarded the Purple Heart directly by the hospital commander rendering treatment.

3. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. It provides that 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.

a. Examples of enemy-related injuries which clearly 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

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

- Frostbite
- 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 disorders
- 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

4. Army Regulation 600-8-22 (Military Awards) prescribes Army policy, criteria, and administrative instructions concerning individual and unit military awards. To be awarded the Combat Infantryman Badge, the recipient must meet the following criteria:

- be an infantryman satisfactorily performing infantry duties
- assigned to an infantry unit during such time as the unit is engaged in active ground combat
- actively participate in such ground combat; campaign or battle credit alone is not sufficient

//NOTHING FOLLOWS//