

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 May 2024

DOCKET NUMBER: AR20230010984

APPLICANT REQUESTS, in effect:

- award of the Purple Heart
- foreign service credit for Germany
- a video/telephone appearance before the Board

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

- 2-DD Forms 149, Application for Correction of Military Record
- listed but not provided - records, medical documents, and an investigation

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. He was wounded twice during his service in the Republic of Vietnam (RVN). He contends that his company commander refused to award him the Purple Heart based on a recommendation from the first sergeant. He contends that his race seemed to have played a part in the denial. He further contends that he was wounded while on convoy, during a break. He was attacked and stabbed by a uniformed Vietnamese with a bayonet. The second incident occurred when he was returning to his compound after dropping off an officer. On this occasion a Vietnamese driver used his truck to force him off the road into a ravine. He sustained severe injuries to his shoulders.

b. His tour in Germany began approximately in 1967 or 1968. He did not complete his tour of duty because he had to return the RVN. This foreign service was a part of his military service and should be reflected in his records.

3. A review of the applicant's records show he is eligible for additional awards which will be addressed through an administrative correction without action by the Board.

4. Having had prior service in the U.S. Army Reserve, the applicant enlisted in the Regular Army on 7 January 1964. He was awarded military occupational specialty 764.10, supply specialist.

5. His DA Form 20, Enlisted Qualification Record, shows he completed the following foreign service:

- Korea, 28 February 1964 to 12 March 1965 (1 year, 13 days completed prior to the enlisting in the Regular Army)
- RVN, 1 June 1966 to 31 May 1967 (1 year)
- Germany, 6 August 1967 to 20 May 1970 (2 years, 9 months, 15 days)
- RVN, 22 January 1970 to 13 April 1971 (1 year 2 months, 23 days)
- (5 years, and 9 days of foreign service covered by the period of the DD Form 214)

6. During the period 23 June 1966 to 29 May 1967 the applicant was assigned to the following units in the RVN:

- Company B, 266th Quartermaster Battalion (Direct Support), 23 June 1966 to 19 July 1966
- 228th Supply & Service Company, 20 July 1966 to 5 August 1966
- 624th Supply & Service Company, 6 August 1966 to 31 August 1966
- 228th Supply & Service Company, 1 September 1966 to 2 November 1966
- 506th Supply & Service Company, 3 November 1966 to 29 May 1967

7. During the period 24 October 1970 to 12 April 1971 the applicant was assigned to the following units in the RVN:

- Detachment 3, Headquarters and Headquarters, 2nd Brigade, CSS Battalion, 24 October 1970 to 9 February 1971
- Company B, (Maintenance) 225th Support Battalion, 10 February 1971 to 12 April 1971

8. Item 40, Wounds, of the DA Form 20 does not list any wounds.

9. On 26 19 April 1972, the applicant was discharged. His service was characterized as honorable. Item 22c, Foreign and/or Sea Service, shows the applicant completed 4 years, 7 months, and 7 days of foreign service for the period covered and his last location was in the U.S. Army Pacific (USARPAC). His DD Form 214 further shows he was authorized or awarded the:

- National Defense Service Medal
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Overseas Service Bars (3)
- Vietnam Service Medal with four campaign stars
- Army Commendation Medal

10. The applicant's record is void of medical records showing he was wounded in action or treated for a wound received as a result of enemy action.

11. The applicant's name is not listed on the Vietnam casualty roster.

12. Regulatory guidance states:

a. The Purple Heart is awarded to members wounded in action. In order to award the Purple Heart, there must be evidence that the wound for which the award is being made was received as a result of enemy action, the wound required treatment by military medical personnel, and a record of the medical treatment was made a matter of official record.

b. For enlisted personnel, enter in Item 22, Foreign and/or Seas Service, of the DD Form 214 the total active duty outside continental limits of the United States for the period covered by the DD Form 214 and the LAST overseas theater in which service was performed, e.g., "Foreign and /or Sea Service (USAREUR)." There was no provision to list all overseas locations the Soldier served on the DD Form 214.

13. The ABCMR will decide cases on the evidence of record. It is not an investigative body. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined there is insufficient medical documentation showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. The burden of proof rest on the applicant and the applicant provided evidence to support his claim for award of the Purple Heart. The Board agreed there was insufficient evidence that showed the applicant's name on the casualty listing or notification to his family that he had been wounded. There is no medical record showing

the applicant received wounds caused by enemy forces that required treatment by medical personnel.

2. The Board agreed per the regulatory guidance on awarding the Purple Heart, the applicant must provide or have in his service records substantiating evidence to verify that he was injured, 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. However, the Board determined there is sufficient evidence to support correction of the applicant DD form 214 to show his foreign service in Germany. Therefore, the Board granted partial relief to add the applicant’s foreign service to his records.

3. The applicant’s request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice 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:

1. In addition to the administrative notes annotated by the Analyst of Record (below the signature), the Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214 for the period ending 19 April 1972 to show in block 22 (Statement of Service) 22c (Foreign and/or Sea Service) 5 years, and 9 days.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to award of the Purple Heart.

[Redacted Signature]

[Redacted Name]
[Redacted Title]

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 additional awards. Correct his DD Form 214, ending 19 April 1972, by adding the following awards.

- Korea Defense Service Medal
- RVN Campaign Medal with Device (1960)
- RVN Gallantry Cross with Palm Unit Citation
- Meritorious Unit Commendation (2nd Award)

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 (AR) 600-8-22, Military Awards, states:

a. The Purple Heart is awarded to members of the Armed Forces of the United States who, while serving under the authority with any of the U.S. Armed Services, have been wounded, were killed, or who have died or may hereafter die of wounds received as a result of hostile enemy action. The wound, injury, or death must have been the result of hostile enemy action, the wound or injury must have required treatment, not merely examination, by a medical officer or a medical professional, provided a medical officer include a statement in the Servicemember's medical record that wounds would have required treatment by a medical officer if one had been available. Additionally, treatment of the wound will be documented in the Servicemember's medical and/or health record.

b. The Korea Defense Service Medal is authorized for award to members of the Armed Forces of the United States who have served on active duty in support of the defense of the Republic of Korea. The period of eligibility is 28 July 1954 to a date to be determined by the Secretary of Defense.

c. The Republic of Vietnam Campaign Medal with Device (1960) was awarded by the Government of Vietnam to all members of the Armed Forces of the United States for qualifying service in Vietnam during the period 1 March 1961 through 28 March 1973. Qualifying service included assignment in Vietnam for 6 months or more.

3. Department of the Army Pamphlet 672-3, Unit Citation and Campaign Participation Credit Register, lists the awards received by units serving in Vietnam. This pamphlet shows:

a. The 228th Supply and Service Company, was cited for award of the Meritorious Unit Commendation for the period 1 October 1966 to 3 July 1967, by Department of the Army General Order (DAGO) Number 39, 1970.

b. The 506th Supply and Service Company, was cited for award of the Meritorious Unit Commendation for the period 1 October 1966 to 19 January 1967, by DAGO Number 39, 1970.

c. Department of the Army General Orders Number 8, dated 1974, announced award of the RVN Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Military Assistance Command and its subordinate units during the period 8 February 1962 to 28 March 1973 and to Headquarters, U.S. Army Vietnam and its subordinate units during the period 20 July 1965 to 28 March 1973.

4. AR 635-5, Separation Documents, in effect at the time stated that for enlisted personnel enter in Item 22, Foreign and/or Seas Service, of the DD Form 214 the total

active duty outside continental limits of the United States for the period covered by the DD Form 214 and the LAST overseas theater in which service was performed, e.g., "Foreign and /or Sea Service (USAREUR)." Other than Vietnam, Indonesia, and Korea, there was no provision to list overseas locations on the DD Form 214.

5. AR 15-185, ABCMR, states the ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. 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//