

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 May 2024

DOCKET NUMBER: AR20230010990

APPLICANT REQUESTS: award of the Bronze Star Medal and Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 11 May 1970

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 his first sergeant informed him that he should have been awarded the Purple Heart for an injury he sustained from a piece of shrapnel that was lodged in his right leg. His first sergeant stated he should also have been awarded a Bronze Star Medal.

3. He was inducted into the Army of the United States on 9 May 1967. He was discharged on 11 May 1967 for immediate enlistment in the Regular Army. He enlisted in the Regular Army on 12 May 1967.

4. His DA Form 20 (Enlisted Qualification Record) shows in:

a. item 31 (Foreign Service), he received overseas tour credit for service in Vietnam from 3 March 1968 through 3 March 1969;

b. item 38 (Record of Assignments), he was assigned to the 560th Maintenance Company (Light Equipment) (Direct Support), Vietnam, as a teletype repairman from 8 March 1968 through 27 February 1969;

c. item 40 (Wounds), no entries; and

d. item 41 (Awards and Decorations):

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)
- two overseas service bars

5. His records do not contain and he did not provide orders or a recommendation for award of the Bronze Star Medal.

6. His name does not appear on the Vietnam casualty listing, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

7. His records do not contain a commander's disqualification for award of the Army Good Conduct Medal (1st Award). His DA Form 20 shows he received ratings of "Excellent" for conduct and efficiency in each of his assignments, where rated.

8. He was honorably released from active duty in the rank/grade of specialist five/E-5 on 11 May 1970. He completed 3 years of net active service during this period. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) of his DD Form 214 lists the following awards:

- National Defense Service Medal
- Vietnam Service Medal
- Republic of Vietnam Campaign Medal with Device (1960)

9. Department of the Army General Orders Number 8, 19 March 1974, confirmed award of the Republic of Vietnam 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.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, 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 an 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. Furthermore, the Board determined the applicant’s record is absent sufficient evidence showing any recommendations or orders awarding him the Bronze Star Medal (BSM).

3. However, the Board determined the applicant's service record did not reflect he was awarded the Army Good Conduct Medal (1st Award) and his record shows he received "excellent" conduct and efficiency ratings throughout his service for the period of 9 May 1967 to 11 May 1970. Based on this the Board granted partial relief for correction of the applicant’s record to award him the Army Good Conduct Medal.

4. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

| <u>Mbr 1</u> | <u>Mbr 2</u> | <u>Mbr 3</u> |                      |
|--------------|--------------|--------------|----------------------|
| :            | :            | :            | 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 awarding him the Army Good Conduct Medal (1st Award) for exemplary service from 9 May 1967 to 11 May 1970 and adding the medal to his DD Form 214 for the period ending 11 May 1970.
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 and Bronze Star Medal.

[Redacted signature block]

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 administrative correction of his DD Form 214 to show the following awards without Board action:

- one silver service star with his Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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 600-200 (Enlisted Personnel Management System), in effect at the time, stated a brief description of wounds or injuries (including injury from gas) requiring medical treatment received through hostile or enemy action, including those requiring hospitalization, would be entered in item 40 of the DA Form 20. The date the wound or injury occurred would also be entered in item 40.

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

a. The Bronze Star Medal is awarded in time of war for heroism and for meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy, or while engaged military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. As with all personal decorations, formal recommendations, approval through the chain of command, and announcement in orders are required.

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 a medical officer, and the medical treatment must have been made a matter of official record. The Purple Heart differs from all other decorations in that an individual is not "recommended" for the decoration; rather, he or she is entitled to it upon meeting specific criteria. When contemplating eligibility for the Purple Heart, the two critical factors commanders must consider is the degree to which the enemy or hostile force caused the wound and whether the wound was so severe that it required treatment by a medical officer.

(1) A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed below. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer provided a medical officer includes a statement in the service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

(2) The key issue commanders must take into consideration when contemplating an award of this decoration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite, but is not sole justification for award.

(3) Examples of enemy-related injuries which 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

(4) Examples of injuries or wounds which do not justify award of the Purple Heart are as follows:

- frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- 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 disorder
- 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

c. One bronze service star is authorized with the Vietnam Service Medal for each campaign during which a member was assigned or attached to and present for duty with a unit during the period in which it participated in combat. One silver service star is worn instead of five bronze service stars. During the applicant's service in Vietnam, participation credit was awarded for the following campaigns:

- Tet Counteroffensive – 30 January 1968-1 April 1968
- Vietnam Counteroffensive Phase IV – 2 April 1968-30 June 1968
- Vietnam Counteroffensive Phase V – 1 July 1968-1 November 1968
- Vietnam Counteroffensive Phase VI – 2 November 1968-22 February 1969
- Tet 69 Counteroffensive 1969 – 23 February 1969-8 June 1969

4. Army Regulation 672-5-1 (Awards), in effect at the time, 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, 1 year served entirely during the period 7 December 1941 to 2 March 1946; and, for the first award only, upon termination of service on or after 27 June 1950 of less than 3 years but more than 1 year. The enlisted person must have had all "Excellent" conduct and efficiency ratings. Ratings of "Unknown" for portions of the period under consideration were not disqualifying. Service school efficiency ratings based upon academic proficiency of at least "Good" rendered subsequent to 22 November 1955 were not disqualifying. There must have been no convictions by a court-martial. However, there was no right or entitlement to the medal until the immediate commander made a positive recommendation for its award and until the awarding authority announced the award in general orders.

//NOTHING FOLLOWS//