

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 22 May 2024

DOCKET NUMBER: AR20230010998

APPLICANT REQUESTS: reconsideration of his previous requests to add the Purple Heart and the Combat Infantryman Badge to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge).

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

- DD Form 149 (Application for Correction of Military Record)
- Record of Proceedings (ROP) for Army Board for Correction of Military Records (ABCMR) Docket Number AR20080014096
- DD Form 214
- DD Form 215 (Correction to DD Form 214)
- Photographs

FACTS:

1. Incorporated herein by reference are military records, as were summarized in the previous considerations of the applicant's case by the ABCMR in Docket Numbers:

- AR20080010625, on 30 July 2008
- AR20080014096, on 17 March 2009
- AR20090011307, on 30 September 2009
- AR20100000966, on 22 July 2010
- AR20100028464, on 16 May 2011
- AR20120014405, on 5 September 2012

2. The applicant states, although the Board has granted a number of the awards he previously requested, he continues to believe the Board should also have approved the Purple Heart and Combat Infantryman Badge.

a. In one of its previous considerations (ABCMR Docket Number AR20080014096), the Board ruled the applicant's injury (fragmentary wound to his cheek) was a "non-hostile injury," incurred when an ammunition dump blew up for unknown reasons. The applicant maintains that "there were two Vietnamese POWs (prisoners of war) working

in the vicinity of the ammo dump that were killed in the explosion and that it was commonly believed by his command that the POWs had committed an act of sabotage causing the explosion, but it could not be proven."

b. With regard to the Combat Infantryman Badge:

(1) The Board contradicted itself in paragraph 22 (referring to paragraph 22 in the ROP, ABCMR Docket Number AR20080014096). This paragraph cited U.S. Army, Vietnam (USARV) Regulation 672-1 (Awards and Decorations); it is clearly evident that the applicant met the regulation's criteria for the Combat Infantryman Badge.

(2) Additionally, under Discussion and Conclusions, the Board stated that the evidence "does not sufficiently show that he (applicant) ever engaged in ground combat"; the applicant declares that he did, in fact, engage in ground combat. The applicant goes on to affirm that he personally fired at the enemy and received hostile fire in return on several occasions. He maintains he served in a combat zone, held a combat military occupational specialty (MOS), and received numerous combat-related awards, to include one for gallantry. "Common sense dictates that (applicant) engaged in combat."

c. The applicant further discloses that he contracted a serious disease due to the unsanitary conditions he experienced "out in the field," and the disease required hospitalization. The applicant concludes he served his country honorably while in Vietnam, and he engaged in combat and sustained wounds. The Army should do the right thing and grant his requests.

d. In support of his request, the applicant provides a copy of the ROP for ABCMR Docket Number AR20080014096, with highlighted paragraphs; copies of his DD Form 214 and DD Form 215; and photographs, presumably of the applicant while in Vietnam.

3. A review of the applicant's service record reveals the following:

a. On 5 May 1969, the Army of the United States (AUS) inducted the applicant for a 2-year term of active duty; upon completion of initial entry training and the award of MOS 11C (Infantry Indirect Fire Crewman), orders transferred him to Vietnam, and he arrived in country, on 24 September 1969. Effective 5 October 1969, orders further assigned him to the 2nd Battalion (Airmobile), 502nd Infantry Regiment, 101st Airborne Division (Airmobile).

b. On 27 March 1970, General Orders (GO) awarded the applicant the Army Commendation Medal for meritorious achievement, during the period 1 October 1969 to 28 February 1970. On 24 April 1970, GO awarded the applicant the Air Medal for

meritorious achievement while participating in aerial flight, from 1 September 1969 to 1 April 1970.

c. On 22 June 1970, Log Entry Number 2617 stated the applicant had sustained a fragmentary wound to his right cheek, and that he received treatment at the 526th Medical Battalion; the applicant's injuries resulted from an "Ammo Dump" explosion, and the cause of the explosion was unknown.

d. On 4 August 1970, GO awarded the applicant the Bronze Star Medal for meritorious service, during the period 1 October 1969 to 31 July 1970. The applicant's DA Form 20 (Enlisted Qualification Record) shows that, on 1 September 1970, medical authority hospitalized the applicant; the available record does not state the reason.

e. On or about 1 November 1970, medical authority released the applicant from the hospital and orders reassigned him to Fort Hood, TX (now renamed Fort Cavazos); he arrived at his new unit, on or about 30 November 1970. On 7 July 1971, the Army released the applicant from active duty and transferred him to the U.S. Army Reserve for the remainder of his military service obligation. His DD Form 214 shows he completed 2 years of net active-duty service. Item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) lists the Vietnam Service Medal with three bronze service stars and the Republic of Vietnam Campaign Medal with Device (1960).

f. Between May 2008 and July 2012, the applicant petitioned the Board to correct the award reflected on this DD Form 214:

(1) On 29 May 2008, the applicant requested the addition of the Combat Infantryman Badge, Purple Heart, Bronze Star Medal, Air Medal, and marksmanship qualification badges. On 30 July 2008, the Army Review Boards Agency (ARBA) administratively closed the request because the applicant had not properly completed the DD Form 149.

(2) On or about 14 August 2008, the applicant resubmitted his request. On 17 March 2009, the Board determined the evidence was insufficient to support the addition of the Purple Heart and Combat Infantryman Badge but agreed to issuing a DD Form 215 to add the following awards:

- Bronze Star Medal
- Air Medal
- Army Commendation Medal
- National Defense Service Medal
- Vietnam Service Medal with four bronze service stars
- Valorous Unit Award

- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal, First Class Unit Citation
- Expert Marksmanship Qualification Badge with Mortar Bar
- Marksman Marksmanship Qualification Badge with Rifle Bar

(3) On 31 May 2009, the applicant requested reconsideration of his requests for the Purple Heart and Combat Infantryman Badge. The applicant acknowledged he did not have additional evidence to support his requests, but he provided a description of his duties in Vietnam and detailed his participation in combat. On 30 September 2009, ARBA administratively closed the applicant's request because he had submitted no new evidence.

(4) On 16 December 2009, the applicant petitioned the Board to reconsider his requests for the Purple Heart and Combat Infantryman Badge; he argued he incurred his wounds during combat and his Bronze Star Medal GO specifically cited his involvement in "ground operations against a hostile force. On 22 July 2010, the Board voted to deny relief, noting that USARV Regulation 672-1 required Bronze Star Medal citations to include the language about ground operations against a hostile force, and commands in Vietnam awarded the Bronze Star Medal for meritorious service to both infantrymen and clerk-typists. With regard to the Purple Heart, the evidence of record indicated the applicant's wounds resulted from non-hostile action.

(5) On 11 November 2010, the applicant again requested reconsideration; on 16 May 2011, ARBA administratively closed the applicant's request due to the lack of new evidence.

(6) On 3 July 2012, the applicant resubmitted a request for reconsideration, pointing to his 11C MOS; his duty assignment as an ammunition bearer during Vietnam; that he participated in four campaigns; his unit received the Valorous Unit Award; and that "USA Vietnam Reg. No. 672-1 has been established." On 5 September 2012, ARBA administratively closed the applicant's request, citing the Board's previous considerations and stating no further action was contemplated.

4. In item 40 (Wounds), on the applicant's DA Form 20, an entry states, "Frag wound to Rt. Cheek (not hostile action)" – 22 June 1970. Additionally, item 41 (Awards and Decorations) does not reflect the award of the Purple Heart.

5. The Vietnam Casualty Roster identifies, by name, Soldiers who were casualties during the Vietnam War; it is commonly used to verify the entitlement to the award of the Purple Heart. The applicant is not listed on this roster.

6. 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 and

maintained by the U.S. Army Human Resources Command Military Awards Branch, failed to reveal any general orders awarding the applicant the Purple Heart.

BOARD DISCUSSION:

1. 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition and available military records, the Board determined the medical records showing the applicant received wounds indicated the wounds resulted from non-hostile action. 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 are no medical records showing the applicant received wound caused by enemy forces.

2. The Board determined that no documentation or supporting statements indicated the applicant had 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 as specified in the criteria for award of the Purple Heart. 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,

3. The Board determined the applicant held primary military occupational specialty (MOS) MOS 11C (Infantry Indirect Fire Crewman) and was assigned to 2nd Battalion (Airmobile), 502nd Infantry Regiment, 101st Airborne Division (Airmobile). However, the Board found insufficient evidence reflecting the applicant was engaged in enemy action or met the regulatory guidance criteria for award of the combat infantryman badge. Therefore, the Board determined reversal of the previous Board determination is without merit and denied relief.

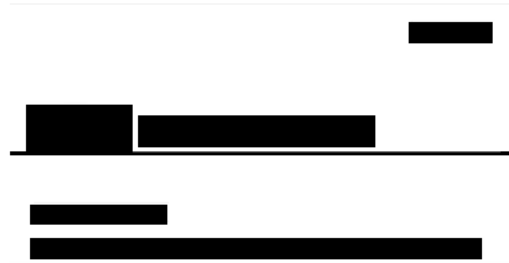
BOARD VOTE:

<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:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number:

- AR20080010625, on 30 July 2008
- AR20080014096, on 17 March 2009
- AR20090011307, on 30 September 2009
- AR20100000966, on 22 July 2010
- AR20100028464, on 16 May 2011
- AR20120014405, on 5 September 2012



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. AR 600-8-22, currently in effect, prescribes policies and procedures for military awards.

a. Regarding the Purple Heart, the regulation states:

(1) The Purple Heart is awarded in the name of the President of the United States to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received, under any of the following circumstances:

- In any action against an enemy of the United States
- In any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged

- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party
- As the result of an act of any such enemy or opposing Armed Forces
- As the result of an act of any hostile foreign force
- After 28 March 1973, as a result of military operations while serving outside the territory of the United States as part of a peacekeeping force

(2) To qualify for the Purple Heart, the wound must have been of such severity that it required treatment, not merely examination, by a medical officer.

- A medical professional is defined as a civilian physician or a physician extender; physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment
- A wound is defined as an injury to any part of the body from an outside force or agent. A physical lesion is not required.
- Additionally, the wound's treatment must be documented in the Soldier's medical records

b. Combat Infantryman Badge. For the award of the Combat Infantryman Badge, the Soldier must meet three requirements:

- The Soldier must be an infantry Soldier (i.e., holds an 11-series MOS, in the grade of colonel or below), and the Soldier must be satisfactorily performing infantry duties
- The Soldier must be assigned to an infantry unit, brigade-sized or smaller, that is engaged in active ground combat
- The Soldier must have actively participated in such ground combat; campaign credits alone are insufficient to warrant this award

2. U.S. Army, Vietnam (USARV) Regulation 672-1 (Decorations and Awards), in effect at the time, included additional guidance on the award of the Combat Infantryman Badge.

a. The regulatory criteria for the Combat Infantryman Badge was based on the principle that the infantry military occupational specialty (MOS)/specialty identified a man who was trained, lived, and fought as an infantryman.

b. The regulation added that the "Combat Infantryman Badge was not an award for being shot at or for undergoing the hazards of day to day combat. Other awards and decorations are designed to accommodate these situations."

c. The regulation stated Special Orders were to be used to announce the award of the Combat Infantryman Badge.

3. AR 15-185, currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body. Additionally, the ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

b. The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

//NOTHING FOLLOWS//