

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 May 2024

DOCKET NUMBER: AR20230011006

APPLICANT REQUESTS: award of 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 United States Report of Transfer or Discharge), for the period ending 9 October 1970
- Self-Authored Statement to Congressional Representative, 29 April 1996
- Two U.S. Army Reserve Personnel Center Responses to Congressional Representative, 20 November 1996 and 10 September 1999
- Former Commander's Letter of Support, 31 December 1998
- Department of Veteran's Affairs (VA) Staff Physician's Letter of Support, 7 February 2023
- Self-Authored Statement, 2 April 2023

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 is requesting award of the Purple Heart as a result of the wounds he received in combat on 18 May 1969 while in Vietnam. He states that the medic who initially treated him was killed in action (KIA) moments after being treated, and the medic that saw him later that evening was also KIA within days due to heavy fighting. On 18 October 2022, during an MRI, shrapnel was discovered in his body.
3. The applicant provides:
  - a. A letter to his congressional representative, dated 29 April 1996, detailing the events of his combat-related experience in Vietnam and a request for assistance in award of the Purple Heart.

b. A response from the U.S. Army Reserve Personnel Center's Special Inquiries Branch, dated 20 November 1996, denying the applicant award of the Purple Heart.

c. A letter from the applicant's former commanding officer, dated 31 December 1998, supporting his request for award of the Purple Heart. The letter recounts and supports the applicant's account of the events that took place during his injury in Vietnam.

d. A response from the U.S. Total Army's Personnel Command's Military Awards Branch, dated 10 September 1999, denying the applicant award of the Purple Heart.

e. A letter from a staff physician at the VA Medical Center, dated 7 February 2023, that confirms findings of a metallic foreign body in the right hip region of the applicant. The provider states that the metallic body is consistent with a piece of shrapnel, probably sustained during an injury in combat in Vietnam.

f. A letter to the U.S. Total Army's Personnel Command's Military Awards Branch, from the applicant, dated 2 April 2023, requesting reconsideration of his request for award of the Purple Heart based on new evidence.

4. A review of the applicant's service record shows:

a. He was inducted into the Army of the United States on 22 December 1967.

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

- item 31 (Foreign Service): service in Vietnam from 5 March 1969 to 9 October 1970
- item 38 (Record of Assignments):
  - 19 March 1969 – HHC, 1st Bn (Ambl), 501st Inf USARPAC
  - 31 June 1969 – HHC, 1st Bn (Ambl), 501st Inf USARPAC
  - 5 December 1969 – HHC, 101st Abn Div (Ambl) USARPAC
  - 30 January 1970 – HHC, 2d Bn (Ambl), 327th Inf USARPAC
  - 17 March 1970 – HHC, 1st Bn (Ambl), 502d Inf USARPAC
- item 40 (Wounds): no entry
- item 41 (Awards and Decorations):
  - National Defense Service Medal
  - Vietnam Service Medal
  - Combat Infantryman Badge
  - Bronze Star Medal with "V" device
  - Vietnam Campaign Medal with "1960" device

- Air Medal (2d award)
- Army Commendation Medal
- Bronze Star Medal (2d award)
- Silver Star
- two overseas service bars
- Army Good Conduct Medal
- Marksman Marksmanship Qualification Badge (M-60)
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)

c. General Orders Number 9544, issued by Headquarters, 101st Airborne Division, on 24 July 1969, awarded him the Bronze Star Medal with "V" Device for his heroism in ground combat against a hostile force in the Republic of Vietnam on 15 April 1969.

d. General Orders Number 663, issued by Headquarters, 101st Airborne Division (Airmobile), dated 2 February 1970, awarded him the Bronze Star Medal for meritorious service in connection with ground operations against a hostile force.

e. General Orders Number 10277, issued by Headquarters, 101st Airborne Division (Airmobile), dated 1 September 1970, awarded him the Bronze Star Medal for meritorious service in connection with ground operations against a hostile force.

f. He was honorably transferred to the U.S. Army Reserve (USAR) on 9 October 1970. His DD Form 214 shows he completed 2 years, 7 months, and 3 days of active service. It also shows he was awarded or authorized:

- National Defense Service Medal
- Bronze Star Medal with two oak leaf clusters
- Silver Star
- Expert Marksmanship Qualification Badge with Rifle Bar (M-14)
- Vietnam Campaign Medal
- Good Conduct Medal
- Marksman Marksmanship Qualification Badge with Rifle Bar (M-16)
- Vietnam Service Medal
- Marksman Marksmanship Qualification Badge with Machine Gun Bar (M-60)
- three overseas service bars
- Air Medal (2d award)
- Combat Infantryman Badge
- Army Commendation Medal

5. The applicant's record does not contain orders for the Purple Heart or any medical records indicating he sustained any injuries.

6. On 14 May 2024, the U.S. Army Human Resources Command responded to a request for information stating that their records do not reveal any orders for the Purple Heart for the applicant.

7. His name is not shown on the Department of the Army Office of the Adjutant General Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

8. By regulation, there are three basic criteria for award of the Purple Heart: The Soldier must have been wounded as a result of hostile enemy action; the wound must have required treatment by medical officer; and the medical treatment must have been made a matter of official record.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board found the medical evidence and statements provided by the applicant sufficient to confirm his entitlement to the Purple Heart for an injury incurred on 18 May 1969. The Board determined he should be awarded the Purple Heart and it should be added to his DD Form 214.

#### BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- Awarding him the Purple Heart for a wound incurred as a result of hostile action on 18 May 1969
- Adding the Purple Heart to his DD Form 214
- Making the corrections described in Administrative Note(s) below

9/24/2024

X

CHAIRPERSON

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):

A review of the applicant's records show he is authorized additional awards not listed on his DD Form 214. As a result, amend his DD Form 214, for the period ending 9 October 1970 by adding

- Bronze Star Medal (3rd Award) with "V" Device
- "1960" Device to his previously awarded Vietnam Campaign Medal
- one silver service star with the Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal First Class 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 600-8-22 (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:

(1) Injury caused by enemy bullet, shrapnel, or other projectile created by enemy action.

(2) Injury caused by enemy-placed trap or mine.

(3) Injury caused by enemy-released chemical, biological, or nuclear agent.

(4) Injury caused by vehicle or aircraft accident resulting from enemy fire.

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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:

(1) Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951).

(2) Trench foot or immersion foot.

(3) Heat stroke.

(4) Food poisoning not caused by enemy agents.

(5) Chemical, biological, or nuclear agents not released by the enemy.

(6) Battle fatigue.

- (7) Disease not directly caused by enemy agents.
- (8) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.
- (9) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.
- (10) Post traumatic stress disorders.
- (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example: ringing in the ears).
- (13) 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.
- (14) Abrasions and lacerations (unless of a severity to be incapacitating).
- (15) Bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer)
- (16) Soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- (17) First degree burns.

3. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:

a. A bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the following 5 campaigns:

- TET 69 Counteroffensive, 23 February 1969 – 8 June 1969
- Vietnam Summer-Fall 1969, 9 June 1969 – 31 October 1969
- Vietnam Winter-Spring 1970, 1 November 1969 – 30 April 1970
- DA Sanctuary Counteroffensive, 1 May 1970 – 30 June 1970
- Vietnam Counteroffensive, Phase VII, 1 July 1970 – 30 June 1971

b. Department of the Army General Order (DAGO) 48, issued in 1971, awarded servicemembers assigned to 2d Battalion, 327th Infantry Regiment the Republic of Vietnam Civil Actions Honor Medal, First Class, for service from 18 March 1968 to 2 May 1970.

c. DAGO 43, issued in 1970, awarded servicemembers assigned to 1st Battalion, 501st Infantry Regiment the Republic of Vietnam Gallantry Cross with Palm Unit Citation, for service from 15 August 1968 to 14 May 1969.

//NOTHING FOLLOWS//