

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 May 2024

DOCKET NUMBER: AR20230011045

APPLICANT REQUESTS: entitlement to the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement

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. On 14 March 1971, he was the Sergeant of the Guard during his service in the Vietnam Conflict. One of his fellow Soldiers he posted on guard duty shot him in his right leg. Please be advised this incident happened on guard duty and he was shot by a Soldier who left his post prematurely. He never received any recognition for his sacrifice, and he believes he deserves the Purple Heart.

b. He claims the Soldier who saved his life (the gunshot struck his femur which exploded and created a situation where he almost bled to death), received the Bronze Star Medal for the incident. Therefore, he feels as the Soldier who was wounded, he should receive something as well and the most appropriate medal would be the Purple Heart.

c. His administrative file shows he was an exemplary Soldier, and the gunshot incident was the cause of his medical retirement from the U.S. Army. He was planning on making the Army a career and he had just volunteered for an additional six months in Vietnam and had recently reenlisted for six years.

3. The applicant enlisted in the Regular Army (RA) on 20 February 1967. He served in military occupational specialty 76P (Stock Control and Accounting Specialist).
4. He was honorably discharged for immediate reenlistment on 18 July 1969.
5. On 19 July 1969, he reenlisted in the RA.
6. On 14 March 1972, he retired honorably with temporary disability. The DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) he was issued shows he served in the Republic of Vietnam from 31 May 1970 to 30 December 1971. The Purple Heart is not listed among his authorized awards.
7. The applicant's Official Military Personnel File is void of any orders or documents that indicate he was awarded the Purple Heart by proper authority while serving on active duty. It also contains no medical records showing he was treated for a wound received as a result of enemy action or was wounded in action by friendly weapon fire while directly engaged in armed conflict.
8. During the processing of this case, a member of the Board's staff reviewed the Department of the Army Vietnam casualty roster. The applicant's name is not included on the roster.
9. Army Regulation 600-8-22 (Military Awards) provides the Army's awards policy.
 - a. Paragraph 2-8 contains guidance on the Purple Heart. It states the Purple Heart is awarded to members wounded in action and states that in order to award the Purple Heart, there must be evidence 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. After 7 December 1941, pursuant to 10 U.S. Code 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

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/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 there is no medical record showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. The governing regulation provides that for award of the Purple Heart, evidence provided must indicate he suffered, as a result of hostile action, a concussion or TBI so disabling as 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 incident.

2. 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. The Board recognize the applicant was wounded by friendly fire, but this does not meet 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, and the medical treatment must have been made a matter of official record.

3. However, during deliberation, the Board determined the applicant's records 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 20 February 1967 to 18 July 1969. Based on this, the Board granted partial relief to correct the applicant's record and award him the Army Good Conduct Medal.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. 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 20 February 1967 to 18 July 1969 and adding the medal to his DD Form 214 for the period ending 14 March 1972.

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]

[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]

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. Army Regulation 600-8-22 provides the Army's awards policy.
 - a. Paragraph 2-8 contains guidance on the Purple Heart. It states the Purple Heart is awarded to members wounded in action and states that in order to award the Purple Heart, there must be evidence 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. After 7 December 1941, pursuant to 10 U.S. Code 1129, as a result of friendly fire provided the member was killed or wounded in action by friendly weapon fire while

directly engaged in armed conflict, other than the result of an act of an enemy of the United States, unless (in the case of a wound) the wound is the result of the willful misconduct of the member.

3. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. 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//