

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 May 2024

DOCKET NUMBER: AR20230011073

APPLICANT REQUESTS: correction of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) to show award of the:

- Combat Infantryman Badge
- Purple Heart (3rd Award)

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 21 July 1969
- Special Orders Number (SO) 198, 10 October 1966
- Data for Retired Pay, 14 July 1969
- Excerpt from DA Form 20 (Enlisted Qualification Record)

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 enlisted for infantry/armor and as a scout. He served in an infantry capacity, earning a Combat Infantryman Badge and third Purple Heart, which are not noted or awarded.
3. The applicant provides SO 198, dated 10 October 1966, which shows he would report for basic training on 17 October 1966 in the military occupational specialty (MOS) 11 (Infantry/Armor). He also provides his request for retired pay, dated 14 July 1969, which shows in the remarks: 11B20.
4. The applicant enlisted in the Regular Army on 10 October 1966. His DD Form 4 (Enlistment Record – Armed Forces of the United States) shows in item 13 (Initial Assignment): Infantry Armor.

5. He served in Germany from 13 March 1967 to 26 November 1967 and in Vietnam from 6 January 1968 to 19 December 1968.

6. His DA Form 20 shows in:

a. Item 38 (Record of Assignments):

- 15 January 1968 – 17 May 1968; Radio Transport Operation, Battery C, 7th Battalion, 13th Artillery
- 18 May 1968 – 10 June 1968; Cannoneer, Battery C, 6th Battalion, 84th Artillery
- 11 June 1968 – 9 July 1968; Gunner, M Company, 3d Squadron, 11th Armored Cavalry Regiment
- 10 July 1968 – 31 October 1968; Senior Scout Observer, L Troop, 3d Squadron, 11th Armored Cavalry Regiment
- 1 November 1968 – 18 December 1968; Patient, 249th Medical Hold Detachment General Hospital

b. Item 40 (Wounds): shrapnel in right leg; 28 October 1968

c. Item 41 (Awards and Decorations): National Defense Service Medal, Marksman Marksmanship Qualification Badge with Rifle Bar, Marksman Marksmanship Qualification Badge with Pistol Bar, Vietnam Service Medal, Vietnam Campaign Medal with Device 1960, one overseas service bar, Purple Heart.

d. General Orders Number 225, dated 31 October 1968 awarded the applicant the Purple Heart for wounds received on 29 October 1968.

e. General Orders Number 9, dated 28 January 1969 awarded the applicant the Purple Heart for wounds received on 28 October 1968.

f. On 21 July 1969 he was honorably retired due to temporary disability. His DD Form 214, as amended by his DD Form 215 (Correction to DD Form 214) shows he completed 2 years, 9 months, and 12 days of active service. It also shows he was awarded or authorized:

- Purple Heart
- National Defense Service Medal
- Vietnam Service Medal with one silver star
- Vietnam Campaign Medal with 1960 Device
- Marksman Marksmanship Qualification Badge with Rifle Bar
- Marksman Marksmanship Qualification Badge with Pistol Bar
- two overseas service bars

- Good Conduct Medal
- Meritorious Unit Emblem
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

7. The applicant's record is void of additional entries of an injury or wound as a result of hostile action or that he was awarded the Purple Heart on a third occasion or the Combat Infantryman Badge. Additionally, the Vietnam casualty roster is a listing of Vietnam-era casualties commonly used to verify entitlement to award of the Purple Heart; it lists the applicant's name for an injury sustained on 28 October 1968.

8. A review of the Awards and Decorations Computer Assisted Retrieval System maintained by the U.S. Army Human Resources Command, which is an index of general orders issued during the Vietnam era between 1965 and 1973, failed to reveal any orders for the Purple Heart pertaining to the applicant.

9. By regulation:

a. The Purple Heart is awarded for a wound/injury 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 medical personnel
- the medical treatment must have been made a matter of official record

b. The Combat Infantryman Badge is awarded to infantry officers and to enlisted and warrant officer persons who have an infantry military occupational specialty (MOS). They must have served in active ground combat while assigned or attached to an infantry unit of brigade, regimental or smaller size. Additionally, Appendix V of U.S. Army Vietnam (USARV) Regulation 672-1 states that during the Vietnam era the Combat Infantryman Badge was awarded only to enlisted individuals who held and served in MOS 11B, 11C, 11D, 11F, 11G, or 11H.

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 review based on law, policy, and regulation. The evidence of record shows the applicant held military occupational specialty (MOS) 13A (Field Artillery Crewman; however, he served in MOS 11E (Gunner) and 11D (Senior Scout Observer) while serving in Vietnam. The applicant served in Vietnam from 13 March 1967 to 26 November 1967. The Board determined

he met the criteria for award of the Combat Infantryman Badge since he served in an infantry MOS.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted for the applicant's request to be awarded the Purple Heart. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, and regulation. The Board determined to be awarded the Purple Heart, the regulatory guidance requires all elements of the award criteria to be met; there must be proof a wound was incurred as a result of enemy action, that the wound required treatment by medical personnel, and that the medical personnel made such treatment a matter of official record. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of the Purple Heart.

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. The Board determined the evidence presented is sufficient to warrant 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 21 July 1969 to show award of the Combat Infantryman Badge.

2. The Board further determined that 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.

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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. U.S. Army Vietnam (USARV) Regulation 672-5-1 (Decorations and Awards), in effect at the time, prescribed policies, responsibilities, and criteria for awards to insure prompt and proper recognition of individuals. The regulation states, in part:

a. The Purple Heart may be awarded to U.S. personnel who are wounded or killed in action as a direct result of enemy action. A wound for which the award is made must have required treatment by a medical officer and records of medical treatment for wounds or injuries received must have been made a matter of official record.

b. Authority to award the Purple Heart was delegated to hospital commanders. Further, it directed that all personnel treated and released within 24 hours would be awarded the Purple Heart by the organization to which the individual was assigned. Personnel requiring hospitalization more than 24 hours or evacuation from Vietnam would be awarded the Purple Heart directly by the hospital commander rendering treatment.

3. 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:

- 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

b. Examples of injuries or wounds which clearly do not justify award of the Purple Heart are as follows:

- Frostbite
- 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 disorders
- 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

3. Army Regulation 600-8-22 (Military Awards) states the Combat Infantryman Badge is awarded to infantry officers and to enlisted and warrant officer persons who have an infantry military occupational specialty (MOS). They must have served in active ground combat while assigned or attached to an infantry unit of brigade, regimental or smaller size. Additionally, Appendix V of U.S. Army Vietnam (USARV) Regulation 672-1 states that during the Vietnam era the Combat Infantryman Badge was awarded only to enlisted individuals who held and served in MOS 11B, 11C, 11D, 11F, 11G, or 11H.

//NOTHING FOLLOWS//