

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 May 2024

DOCKET NUMBER: AR20230011242

APPLICANT REQUESTS: correction of his record to show he was awarded the Purple Heart for wounds sustained while serving in the Republic of Vietnam.

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

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (DVA) Rating Decision
- Miscellaneous medical documents
- Certificate of Achievement
- DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 pertinent part that he was shot while serving in the Republic of Vietnam requiring the removal of shrapnel as documented within his service records. He contests that he served his country honorably and would like his DD Form 214 (Armed Forces of the U.S. Report of Transfer or Discharge) to reflect accordingly. He notes that there was so much confusion going on during the Tet Offensive and after his release from active duty, he never thought about his service. Like so many other Veterans at that time, he was treated poorly and simply wanted to get on with his life.
3. A review of the applicant's available service records reflects the following:
  - a. On 22 August 1966, the applicant enlisted in the Regular Army to serve in military occupational specialty 72B (Communications Center Specialist) for 3 years.
  - b. On or about 24 February 1967, the applicant completed 72B training.

c. On or about 22 March 1967, the applicant was reassigned to the Republic of Vietnam and further assigned to the 44th Signal Battalion with duty as a 72B.

d. On or about 4 November 1968, the applicant departed the Republic of Vietnam.

e. On 21 August 1969, the applicant was honorably released from active duty and transferred into the U.S. Army Reserve (USAR) Control Group (Reinforcement). His DD Form 214 shows the following awards:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- Army Good Conduct Medal

f. On 29 July 1972, the U.S. Army Reserve Components Personnel and Administration Center issued Letter Orders Number 07-1263734 honorably discharging the applicant from the USAR Control Group (Standby), effective 21 August 1972.

4. The applicant provides:

a. DVA Rating Decision reflective of the applicant's rated conditions as assessed and awarded by the DVA. The applicant has two service-connected conditions reflective of shrapnel wounds to the lower left leg.

b. Miscellaneous medical documents reflective of medical care received by the applicant during his military service. Upon review it is to be noted that the applicant has received recurring care/treatment for an ulcer of unknown origin on his left leg since October 1967. These documents are void of evidence of any gunshot wounds or other hostile fire related injuries that required treatment during his military service.

c. Certificate of Achievement reflective of the applicant being recognized for his meritorious service while serving in the Republic of Vietnam from 22 March 1967 – 7 November 1968.

5. The applicant's records do not contain orders awarding him the Purple Heart. Additionally, nothing in several typical sources show that the applicant was injured or wounded as a result of hostile action or that he was awarded the Purple Heart:

a. The applicant's name is not shown on the Vietnam casualty listing. This is a listing of Vietnam era casualties commonly used to verify entitlement to award of the Purple Heart.

b. Item 40 (Wounds) of his DA Form 20 (Enlisted Qualification Record) does not list an injury as a result of hostile action or a date for an injury.

c. No contemporaneous medical records exist to support an injury (as a result of hostile action) or treatment for such injury.

d. The applicant's personnel records do not contain an official Army message or a Western Union telegram notifying his next of kin of an injury or wound sustained in action. This was a typical notification procedure for injuries at the time.

e. 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 maintained by the U.S. Army Human Resources Command, failed to reveal any orders for a Purple Heart pertaining to the applicant.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. The Board found insufficient evidence in the available records to confirm the applicant was wounded as a result of hostile action during his service in Vietnam. In the absence of additional documentation confirming he incurred a wound that met the criteria for the Purple Heart, the Board determined he is not authorized the Purple Heart.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 for correction of the records of the individual concerned.

9/24/2024

  
XCHAIRPERSON  


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, USC, 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 (AR) 600-8-22 (Military Awards) provides, in pertinent part, the Purple Heart is awarded for a wound sustained as a result of hostile action. Substantiating evidence must be provided to verify that the wound was the result of hostile action, the wound must have required treatment, and the medical treatment must have been made a matter of official record. A wound is defined as an injury to any part of the body from an outside force or agent sustained as a result of hostile action. This regulation also provides that there is no time limitation on requests for award of the Purple Heart.
3. AR 672-5-1 (Military Awards), then in effect, provided, in pertinent part, that the Purple Heart was awarded to any member of an Armed Force or any civilian national of the United States who, while serving under competent authority in any capacity with one of the U.S. armed services had been wounded, killed, or who had died as a result of a wound sustained as a result of hostile action. Substantiating evidence must be provided to verify that 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.

//NOTHING FOLLOWS//