

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 May 2024

DOCKET NUMBER: AR20230011284

APPLICANT REQUESTS:

- a. An update to his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) for the period ending 17 November 1970 to show he was entitled to and awarded the Purple Heart (PH) and added to his DD Form 214.
- b. A personal appearance before the Board (via video or telephone).

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

- DD Form 149 (Application for Correction of Military Record)
- A letter the applicant wrote to his father
- A picture of a scar on an arm
- A letter issued by National Personnel Records Center (NPRC), dated 22 May 2023
- DD Form 214 for the period ending 17 November 1970

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 was wounded on Thanksgiving Day, 1969, during a firefight in Quangtri province, Vietnam. He was struck with scrap metal in his right arm and was medically evacuated to a field hospital for surgery. After surgery, he remained in hospital care for about three weeks and returned to combat immediately after. He received a letter from NPRC that lists awards he is authorized for his service, but it does not include the PH, he would like his record to be corrected to include the PH.
3. The applicant provides:

a. A letter the applicant wrote to his father, dated 29 November (year is not provided). In this document, he explains that they had just swept the top of hill 162 and made heavy contact. Before they assaulted the hill, they called an air strike, cobras, and artillery. When they arrived at the top of the hill, the enemy was still there. At that point, he was hit with a grenade fragment, in the right arm. He further explains it was nothing serious and that he should be in the hospital for three weeks or so. The letter is available in its entirety for the Board's review.

b. A picture of an arm with a scar on it.

c. A letter issued by NPRC to the applicant, dated 22 May 2023 lists the awards which he was authorized, to include the following awards:

- Army Commendation Medal (ARCOM)
- National Defense Service Medal (NDSM)
- Vietnam Service Medal (VSM) with four bronze service stars
- Combat Infantryman Badge (CIB) (1st award)
- Republic of Vietnam Campaign Ribbon with Device (1960)
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Expert Badge with Rifle Bar

d. The NPRC does not list any PH's that the applicant was awarded.

e. The applicant is authorized additional awards not currently listed on his DD Form 214. These awards will be administratively correction in the "Administrative Notes" section of this document without the need for Board action.

4. The applicant's service record reflects the following:

a. DD Form 47 (Record of Induction) shows he was inducted into the Army of the United States on 14 May 1969.

b. General orders number 1956 dated 27 October 1970, reflect he was awarded the Bronze Star Medal (BSM) for the period of October 1969 to December 1970. This award is not reflected in the applicant's DD Form 214; therefore, it will be administratively corrected in the "Administrative Notes" section of this document without Board action.

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

- item 31 (Foreign Service): 23 October 1969 through 17 November 1970 U.S. Army Pacific (USARPAC)-Vietnam/Extended 53 days
- item 33 (Appointments and Reductions) this document shows consecutive promotions and does not reflect any reductions in rank.
- item 38 (Record of Assignments): He was assigned to B Company, 1st Battalion, 11th Infantry, 1st Brigade, 5th Infantry Division, from 12 November 1969 to 11 November 1970
- item 38 (continued): he received all excellent ratings in conduct and efficiency
- item 40 (Wounds): laceration wound (LW) fragment wound (FW) to right upper arm, dated 27 November 1969
- item 41 (Awards and Decorations): NDSM, VSM, CIB (1st Award), ARCOM, VCM, two overseas bars, however this document does not reflect the PH

d. The applicant's service record does not reflect any misconduct or disciplinary actions.

e. His DD Form 214 shows he was honorably released from active duty on 17 November 1970 and was transferred to the U.S. Army Reserve (USAR). He completed 1 year, 6 months, 4 days of net service during this period. This document further reflects in:

- item 22c (Foreign and/or Sea Service): 1 year, 0 months, 25 days
- item 24 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded or Authorized): NDSM, VSM, CIB, ARCOM, VCM, two overseas bars, Expert Badge M-14 Rifle, does not reflect the PH
- item 30 (Remarks): "Service in Vietnam from 23 October 1969 through 17 November 1970"

5. 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 Military Awards Branch, failed to reveal any orders for the PH pertaining to the applicant.

6. The applicant's name is shown on the Department of the Army Office of the Adjutant General Vietnam 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.

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, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence that showed the applicant's name on the casualty listing or notification to his family that he had been wounded. The Board recognized the applicant was wounded with laceration wound (LW) fragment wound (FW) to right upper arm; however, the records is absent medical documentation showing the applicant received wounds caused by enemy forces that required treatment by medical personnel.
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, and the medical treatment must have been made a matter of official record. Based on this, the Board denied relief.
3. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.
4. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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:

Except for the correction addressed in Administrative Note(s) below, 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 for correction of the records of the individual concerned.



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 shows he is authorized additional awards not listed on his DD Form 214. As a result, amend his DD Form 214 by amending item 24 (Awards) to show he was authorized the following awards:

- Bronze Star Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Vietnam Service Medal with four bronze service stars
- Republic of Vietnam Civil Actions Honor Medal, First Class (1 January 1966 to 21 January 1970, DAGO 9, 1979

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.

a. The Purple Heart is awarded for a wound sustained while in action against an enemy or 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 medical personnel, and the medical treatment must have been made a matter of official record.

b. A wound is defined as an injury to any part of the body from an outside force or agent sustained under one or more of the conditions listed above. A physical lesion is not required. However, the wound for which the award is made must have required treatment, not merely examination, by a medical officer. Additionally, treatment of the wound will be documented in the Service member's medical and/or health record. Award of the Purple Heart may be made for wounds treated by a medical professional other than a medical officer, provided a medical officer includes a statement in the Service member's medical record that the extent of the wounds was such that they would have required treatment by a medical officer if one had been available to treat them.

c. When contemplating an award of the Purple Heart, the key issue that commanders must take into consideration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a necessary prerequisite but is not the sole justification for award.

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

a. Paragraph 6d, states that Department of the Army General Orders Number 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation to Headquarters, U.S. Army Vietnam, and its subordinate units for the period 20 July 1965 to 28 March 1973.

b. Paragraph 8 Campaign participation credits shows he was authorized four bronze campaign stars for the following campaigns:

- Vietnam Summer-Fall 1969 (9 June 1969-31 October 1969)
- Vietnam Winter-Spring 1970 (1 November 1969-30 April 1970)
- Sanctuary Counter offensive 1970 (1 May 1970-30 June 1970)
- Vietnam Counteroffensive, Phase VII 1970-1971 (1 July 1970-30 June 1971)

4. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register), paragraph 6d, states in table 9, 5th Infantry, 1st Battalion reflects the unit was awarded the RVN Civil Actions Honor Medal, First Class for the period 1 January 1966 to 21 January 1970, pursuant to Department of the Army General Order 9, dated 1979.

5. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//