

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 October 2024

DOCKET NUMBER: AR20230011375

APPLICANT REQUESTS:

- award of the Purple Heart
- reconsideration of his prior request for award of the Ranger Tab

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

- three DD Forms 149 (Application for Correction of Military Record), 17 August 2023, 11 April 2024, and 12 April 2024
- U.S. Army Infantry School Ranger Course Diploma, 4 November 2005
- Chemical Reconnaissance Detachment Ranger Course Diploma, 4 November 2005
- five witness statements
- U.S. Army Human Resources Command (AHRC) letter, 29 August 2017
- AHRC letter, 23 August 2017
- Department of Veterans Affairs (VA) Rating Decision, 27 November 2020
- VA Rating Decision, 27 February 2023

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20220003529 on 21 November 2022.

2. The applicant states:

a. He should have been awarded the Purple Heart while in Iraq for traumatic brain injury (TBI) now that TBI qualifies for the Purple Heart.

b. The Ranger Tab is missing from his DD Form 214 (Certificate of Release or Discharge from Active Duty). The Ranger Course is listed on his DD Form 214, but not the Ranger Tab.

3. The applicant enlisted in the Army National Guard (ARNG) on 3 January 2002, and after completion of active duty training (ADT) on 13 November 2003, was awarded the Military Occupational Specialty (MOS) 74D (Chemical Operations Specialist).

4. The applicant provided two diplomas, that show:

a. A U.S. Army Infantry School Ranger Course Diploma shows the applicant successfully completed the Ranger Course at Fort Benning, GA, on 4 November 2005.

b. A 20th Special Forces Group (Airborne) Diploma shows the applicant successfully completed the Chemical Reconnaissance Detachment Ranger Course at Fort McClellan and Pelham Range, AL, on 4 November 2005.

5. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows:

a. The applicant was ordered to active duty in support of Operation Iraqi Freedom on 30 June 2006, with duty in Iraq from 12 August 2006 through 31 March 2007.

b. He was honorably released from active duty and transferred back to his ARNG unit on 1 June 2007, due to completion of required active service. He was credited with 11 months and 2 days of net active service this period.

c. Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) does not reflect award of the Purple Heart or the Ranger Tab.

6. There are no available medical documents, either provided by the applicant or in his service records, reflecting the applicant's diagnosis of and treatment by a medical officer for TBI during his period of service in Iraq, that his TBI was the result of hostile action, and the medical treatment was made a matter of his official record.

7. A National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service) shows:

a. The applicant was honorably discharged from the ARNG at the request of the Soldier on 13 February 2008, and transferred to the U.S. Army Reserve (USAR) Control Group (Individual Ready Reserve (IRR)).

b. He was credited with 6 years, 1 month, and 11 days of net service this period.

c. Item 15 (Decorations, Medals, Badges, Commendations, Citations and Campaign Ribbons Awarded) do not show he was awarded or authorized the Purple Heart or the Ranger Tab.

8. The applicant's records contain numerous DD Forms 215 (Correction to DD Form 214) and DD Forms 214, briefly summarized below, all of which have been issued, voided, and/or reissued between June 2009 and June 2016, in order to correct his one original DD Form 214 covering his period of active service ending 1 June 2007, by adding missing awards. None of these multiple DD Forms 214 and DD Forms 215 reflect or pertain to award of the Purple Heart or the Ranger Tab.

a. A DD Form 215 was issued by AHRC, Awards and Decorations Branch on 12 June 2009, deleting from item 13 the Iraq Campaign Medal and adding the Iraq Campaign Medal with one bronze service star.

b. A DD Form 215 was issued by AHRC on 24 August 2010, adding to item 13 the Combat Action Badge.

c. The above DD Forms 215 were voided and AHRC, Awards and Decorations Branch, and that office administratively reissued his DD Form 214 on 20 June 2016, incorporating the corrections from the prior DD Forms 215 and adding multiple new entries to item 13, including the Overseas Service Ribbon and Air Assault Badge.

9. A letter from AHRC, Awards and Decorations Branch to the applicant's Member of Congress, dated 29 August 2017, shows:

a. This letter was in response to the Member of Congress's 22 August 2017 request concerning the applicant's desire to obtain the Purple Heart. ARHC stated they would like to take favorable action on his request, but they were unable to authorize award of the Purple Heart.

b. The statutory and regulatory criteria governing award of the Purple Heart require it to be authorized to Soldiers for wounds received as a result of enemy action. The wound must have required treatment by a medical officer and been made a matter of official record.

c. Based on review of prior award submissions to their office since 2010, they noted the applicant sustained hearing loss due to exposure to a rocket attack on 26 September 2006, while in Iraq. Army Regulation 600-8-22 (Military Awards) specifically prohibits award of the Purple Heart on the basis of hearing loss or tinnitus. If the applicant believed he incurred qualifying wounds, they required official documentation reflecting his treatment in order to take favorable action.

10. A second letter from AHRC, Awards and Decorations Branch to the applicant's Member of Congress, dated 23 August 2018, shows:

a. This letter was in response to the Member of Congress' 8 August 2017 request concerning the applicant's desire to be awarded the Purple Heart. As per their previous correspondence, dated 29 August 2017, they remained unable to authorize award of the Purple Heart.

b. Based upon review of the forwarded documentation, there appeared to be some confusion regarding the exact date of the incident. During previous requests to their office, the applicant reported exposure to a rocket attack on 26 September 2006, from which he allegedly suffered hearing loss. He is now citing a different incident date of 26 August 2006, while also referencing a concussion and other injuries. Please note, clarification must be provided clarifying whether the applicant is presenting an entirely new date of injury, or whether the previous award requests were in error.

c. Due to the circumstances of war, they understood the applicant may not have had immediate access to a medical facility at the time of the incident; therefore, it may be extremely difficult to locate pertinent military medical documentation from immediately after or close to the event. The applicant claims to have received a memorandum for record by the 18D (Special Forces Medical Sergeant) medics who treated him for this incident in Iraq. In order to proceed with this request, they requested a legible copy of this document for review. They also requested all eyewitness statements were signed and notarized by a proper authority.

d. The applicant was advised that if he was unable to furnish the required documentation, his final administrative recourse was application to the ABCMR.

11. The applicant provided multiple witness statements with his current application to the Board, which may or may not have been provided to AHRC Awards and Decorations Branch in support of his prior requests for award of the Purple Heart in 2017 and 2018, and in pertinent part show:

a. A witness statement from A\_\_\_\_ M\_\_\_\_, MOS 18D, dated 2 July 2017, shows he was one of the 18D medics during their deployment to Iraq in 2006/2007. He treated the applicant immediately after he was injured by the blast from a rocket attack in August 2006. The blast caused him to suffer a ruptured ear drum (tympanic membrane rupture), a broken nose, and a contusion on his leg, as well as a mild concussion, which left him unconscious for approximately 3 minutes. The applicant was given pain relief medication, antibiotics, and order to bed rest/no work for no less than 1 week. If there had been easier access from their locations or had there been any major complications during recovery, he would have recommended the applicant be transported and further treated by a physician, rather than by himself as an 18D medic.

b. A witness statement from D\_\_\_\_ J\_\_\_\_, dated 1 August 2017, shows he was a witness to the injuries the applicant sustained while they were deployed together to Iraq

in 2006 – 2007. In August 2006, the applicant was involved in an explosion caused by a rocket attack on the Forward Operating Base (FOB) where they were located. He was assigned to the same team as the applicant, and he helped him clean his wounds after the explosion. He was unconscious for roughly 3 minutes and confused for several hours after the incident. The explosion caused him to rupture his ear drums and gave him a concussion. He was given medication for his pain caused by his headaches and ruptured eardrums. He was told to spend a week in bed to rest and recover. He was treated locally by the medics on their team and allowed to continue to work after his week of rest. He continued to have migraines and headaches through the rest of their deployment, and he understands he still continues to suffer with migraines and the effects of this TBI today.

c. An undated witness statement from A\_\_\_\_ M\_\_\_\_, shows he was the medic who treated the applicant while on deployment to Iraq in 2006/2007 after he suffered injuries caused by the blast from a rocket attack. The applicant was in close range of the explosion on 26 September 2006, that caused him to suffer a tympanic membrane perforation (ruptured ear drum), due to the acoustic trauma, as well as a brief period of unconsciousness caused by the blast. He treated the applicant with antibiotics to stave off any infection and ordered him to bed rest for 1 week, leaving the eardrum to heal naturally, due to their location. However, had it been possible or had there been major complications in the healing process, he would have recommended the applicant be further seen and/or treated by a physician rather than himself, as the 18D medic.

d. An undated witness statement from M\_\_\_\_ Q\_\_\_\_ shows he was writing to confirm he can vouch that the applicant was injured in combat as a direct result of a rocket attack on FOB Marez, in Mosul, Iraq. The incident took place on or around the September 2006 timeframe. He was no less than 100 meters from the point of impact and lost his hearing due to this direct blast. He was helped back to his room by some other Soldiers passing by and they stopped to help them get him to his bed to rest. His hearing was completely messed up due to this explosion.

e. An undated witness statement/statement of record, with the points of contact listed as D\_\_\_\_ D\_\_\_\_ and A\_\_\_\_ M\_\_\_\_, shows at the bottom of the document that this record was kept in lieu of a Standard Form 600 (Chronological Record of Medical Care) and has been provided in full to the Board for review. It lists medical encounters with the applicant between 14 August 2006 and 1 March 2007. Included among the encounters is that the applicant suffered the effects of a rocket explosion on 26 August 2006, causing him to suffer a ruptured ear drum, broken nose, small cut on the right leg and minor concussion. His leg was cleaned and bandaged. His nose and ears were cleaned and checked. Pain relief and antibiotics were given. Bed rest was ordered, and he was monitored.

12. An additional DD Form 215 was issued by AHRC, Awards and Decorations Branch on 28 February 2018, further correcting his reissued DD Form 214 covering the period ending 1 June 2007, by adding the Humanitarian Service Medal to item 13.

13. In July 2020, the applicant made his first application to the ABCMR, wherein he requested correction of his DD Form 214 covering the period ending 1 June 2007, to reflect numerous military education courses, including the Airborne Course, Pathfinder Course, Tactical Combat Casualty Care Course, Special Mission Radio Systems Course, Antiterrorism Level 1 Awareness Training, Basic Combat Training (BCT) and Chemical Reconnaissance Detachment Ranger Course. The application does not request award of the Purple Heart or Ranger Tab.

14. A VA Rating Decision, dated 27 November 2020, shows:

a. The applicant's evaluation of post-traumatic stress disorder (PTSD) with TBI, which was currently 70 percent disability, was increased to 100 percent effective 3 March 2020.

b. His evaluation of migraine headaches, which was currently 50 percent disabling, was continued.

c. His level of Special Monthly Compensation was confirmed and continued at its current rate.

15. ABCMR Record of Proceedings for Docket Number AR20200008409 shows on 8 April 2021, the Board voted to grant partial relief of the applicant's July 2020 request by amending his DD Form 214 covering the period ending 1 June 2007, at the following items, by adding:

- item 11 (Primary Specialty): Special Qualification Identifier (SQI) "5P" and Additional Skill Identifier (ASI) F7 (Pathfinder)
- item 13: Parachutist Badge and Pathfinder Badge
- item 14 (Military Education): Airborne Course, 3 weeks, 2005 and Pathfinder Course, 3 weeks, 2007

16. The applicant's DD Form 214, covering the period ending 1 June 2007, which had been administratively reissued by AHRC, Awards and Decorations Branch on 20 June 2016, as well as the DD Form 215 issued by AHRC, Awards and Decorations Branch on 28 February 2018, were both voided and on 4 May 2022, the Army Review Boards Agency administratively reissued the applicant's DD Form 214 covering the period ending 1 June 2007, incorporating all of the above corrections.

17. The applicant again applied to the ABCMR in January 2022, requesting reconsideration of his prior request for correction of his DD Form 214 covering the period 1 June 2007, stating that the Basic Airborne Wing, and unspecifically that "Pathfinder" and "Ranger" are not reflected. The applicant did not request award of the Purple Heart or specifically award of the Ranger Tab with this request.

18. ABCMR Record of Proceedings for Docket Number AR20220003529 shows on 21 November 2022, the Board voted to deny the applicant's request for correction of his DD Form 214 covering the period 1 June 2007, to show, in effect, the Basic Airborne Wing [sic], Pathfinder Course, and Ranger Course, as the DD Form 214 is a summary of the Soldier's most recent period of continuous active service and these achievements transpired outside the timeframe of his DD Form 214.

19. A second VA Rating Decision, dated 27 February 2023, shows:

a. Service connection for benign paroxysmal positional vertigo (BPPV) was granted with an evaluation of 30 percent effective 21 June 2022.

b. Entitlement to special monthly compensation based on aid and attendance criteria being met was granted from 22 September 2020.

20. A memorandum signed by the Deputy Assistant Secretary of the Army (Review Boards), dated 28 June 2023, shows he reviewed the ABCMR Record of Proceedings in Docket Number AR20220003529, in which the Board denied the applicant's request. He reviewed the evidence, findings, and conclusions and determined there was sufficient evidence to grant relief by correcting the applicant's DD Form 214 covering the period ending 1 June 2007, to add the "Basic Airborne Badge" [sic], Pathfinder Badge, and Chemical Reconnaissance Detachment Ranger Course (2005).

21. The applicant's available service records do not contain a document showing, his DD Form 214 covering the period ending 1 June 2007, reissued by ARBA on 4 May 2022, was appropriately voided. Nonetheless, on 9 July 2023, the applicant was administratively reissued a DD Form 214 covering the period 1 June 2007, incorporating the changes directed in the Deputy Assistant Secretary of the Army (Review Boards) memorandum, dated 28 June 2023.

22. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

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 served in Iraq from 12 August 2006 to 31 March 2007. The Board majority found the evidence supports a conclusion the applicant incurred an injury as a result of a rocket attack on 26 August 2006 that met the criteria for the Purple Heart. The applicant provided several Soldier statements in support of his application stating he suffered injuries, including a ruptured ear drum and most significantly a mild concussion which caused him unconsciousness. Based on a preponderance of the evidence, the majority determined the applicant should be awarded the Purple Heart for a concussion incurred as a result of hostile action on 26 August 2006. The Board minority concurred with the conclusion of the U.S. Army Human Resources Command that the evidence does not indicate the applicant incurred an injury that required treatment by a medical officer and did not meet the criteria to establish entitlement to the Purple Heart.
2. Upon review of the applicant's petition and available military records, the Board determined his record is void of documentation to support he completed the Ranger Course or other criteria to establish entitlement to the Ranger Tab. The Board noted the provided diploma by the applicant, but also noted the diploma was not recorded in the applicant's Army Military Human Resource Record.
3. Prior to closing the discussion, the Board noted and concurred with the administrative note below.



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 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 injuries sustained in action on 26 August 1006
- adding to his DD Form 214, for the period ending 1 June 2007, the Purple Heart

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 any additional amendments of his DD Form 214 in excess of the above.

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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.

ADMINISTRATIVE NOTE: make the following administrative corrections without action by the Board -

- a. void his DD Form 214 covering the period ending 1 June 2007, reissued by ARBA on 4 May 2022.
- b. correct item 13 of the applicant's DD Form 214 covering the period 1 June 2007, which was reissued on 9 July 2023, by
  - deleting the - "Basic Airborne Badge"
  - adding the - Parachutist Badge

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. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRBs) and Boards for Correction of Military/Naval Records (BCM/NRs) when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including post-traumatic stress disorder (PTSD), traumatic brain injury (TBI), sexual assault, or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based, in whole or in part, on those conditions or experiences.

3. Army Regulation 600-8-22 (Military Awards), currently in effect, provides Army policy, criteria, and administrative instructions concerning individual and unit military awards.

a. The Purple Heart is awarded to any member who, while serving under competent authority in any capacity with one of the Army Services, has been wounded or killed or who has died or may hereafter die after being wounded:

(1) In any action against an enemy of the United States;

(2) In any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged;

(3) While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party;

(4) As a result of an act of any such enemy of opposing armed forces;

(5) As a result of an act of any hostile foreign force;

(6) After 23 March 1973, as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States, recognized as such an attack by the Secretary of the Army, or jointly by the Secretaries of the separate

armed services concerned if persons from more than one service are wounded in the attack;

(7) After 28 March 1973, as a result of military operations while serving outside the territory of the United States as part of a peacekeeping force; or

(8) Members killed or wounded by friendly fire.

b. 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.

c. When contemplating eligibility for the Purple Heart, the two critical factors commanders must consider are the degree to which the enemy or hostile force caused the wound and whether the wound was so severe that it required treatment by a medical officer. Some examples of enemy-related actions that justify eligibility for the PH are as follows:

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

(2) Injury caused by enemy emplaced trap, mine, or other improvised explosive device.

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

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

(5) Smoke inhalation injuries from enemy actions that result in burns to the respiratory tract.

(6) Perforated eardrum caused by enemy action (two critical factors to consider are the degree to which the enemy or hostile force caused the wound and whether the wound was so severe that it required treatment by a medical officer).

(7) Concussions or mild(m) traumatic brain injury (TBI) caused as a result of enemy-generated explosions that result in 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.

d. Some examples of injuries that do not justify eligibility for the Purple Heart are:

- (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) Exposure to chemical, biological, or nuclear agents not directly released by the enemy.
- (6) Battle fatigue, neuropsychosis, and post-traumatic stress disorders.
- (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) First-degree burns.
- (11) Airborne (for example, parachute or jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example, ringing in the ears).
- (13) mTBI that does not 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 or lacerations, unless of a severity requiring treatment by a medical officer.
- (15) Bruises or contusions, 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).

e. It is not intended that such a strict interpretation of the requirement for the wound to be caused by direct result of hostile action be taken that it would preclude the award of the Purple Heart being made to deserving personnel. Commanders must take into consideration the circumstances surrounding a wound.

f. The Ranger Tab is authorized for award to U.S. military and civilian personnel and foreign military personnel who qualify as prescribed. The basic eligibility criteria for award of the Ranger Tab are:

(1) Successful completion of a Ranger course conducted by the U.S. Army Infantry School.

(2) Any person who was awarded the Combat Infantryman Badge while service during World War II as a member of a Ranger Battalion (1st – 6th inclusive) or in the 530th Composite unit (Provisional (Merrill's Marauders).

(3) Any person who successfully completed a Ranger course conducted by the Ranger Training Command at Fort Benning, GA.

4. Army Regulation 635-5 (Separation Documents) in effect at the time, prescribes policies and procedures regarding separation documents, including the standardized preparation of the DD Form 214 (Certificate of Release or Discharge from Active Duty). The regulation specifies in the preparation of the DD Form 214, item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized), to list awards and decorations for all periods of service in the priority sequence specified in Army Regulation 600-8-22. Each entry will be verified by the Soldiers records.

5. Title 38, U.S. Code, section 1110 (General – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

6. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of

service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

//NOTHING FOLLOWS//