

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 January 2025

DOCKET NUMBER: AR20230011501

APPLICANT REQUESTS: the son of the former service member (SM) requests, in effect, award of the Purple Heart for his father and issuance of a DD Form 215 (Correction to DD Form 214 (Report of Separation from the Armed Forces of the United States)) to show the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214
- Newspaper Article
- Certificate of Death

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 requests issuance of a DD Form 215 with added Purple Heart award and issuance of the Purple Heart to the family because it is the right thing. The SM deserves this.
3. The applicant provides:
 - a. A self-authored letter, 28 July 2024, shows the SM was wounded at Porkchop Hill in Korea. He was sent to a hospital in Japan for the wounds he sustained from the war. He told the applicant and his brothers that he received the Purple Heart for his wounds, but he never did.
 - b. A newspaper article that attests to the SM being overseas and wounded in action in the desperate fighting on Porkchop hill. The SM was a member of the 31st Infantry Regiment and was wounded 26 June. He entered the service on 19 November 1952.

c. Certificate of Live Birth, 2 April 1962 shows the SM is the applicant's father. Date of birth is 2 March 1962.

d. Certificate of Death shows the SM was a Veteran of Korea and died on 17 June 2014.

4. The SM's military records are not available for review; therefore, this case is being considered based on the documents the applicant provides.

5. Review of the SM's service record shows:

a. He was inducted into the Army of the United States on 19 November 1952.

b. He served overseas for 1 year, 4 months and 28 days. He was assigned to Headquarters, 31st Infantry Regiment.

c. His DD Form 214 shows in item 29 (Wounds Received as a Result of Action with Enemy Forces) that he had a wound of the left upper arm, left lower arm and the lower lip, 28 June 1953.

d. He was honorably released from active duty on 29 September 1954. His DD Form 214 shows he was transferred to the U.S. Army Reserve. He completed 1 year, 10 months, and 11 days net active service. It also shows in:

- item 26 (Foreign Service): 1 year 4 months and 2 days
- item 27 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized):

- Korean Service Medal with one bronze star
- Combat Infantry Badge
- United Nations Service Medal
- National Defense Service Medal

- Item 28 (Most Significant Duty Assignment): 1824 Headquarters, CO 43rd Engineering Company

e. His record is void of orders awarding him the Purple Heart.

f. A review of the Korean Casualty File does not reveal he was awarded the Purple Heart.

6. By regulation (AR 600-8-22), 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.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the multiple documents showing the FSM received injuries during combat, including those listed on the FSM's DD Form 214, Block 29, the Board concluded there was sufficient evidence to award the Purple Heart for injuries incurred on 28 June 1953, while the FSM served in Korea.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by awarding and adding the Purple Heart to the FSM's DD Form 214 for injuries incurred on 28 June 1953, while service in Korea.

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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. Army Regulation (AR) 600-8-22 (Military Awards) prescribes 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:

- In any action against an enemy of the United States;
- 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;
- 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;
- As a result of an act of any such enemy of opposing armed forces;
- As a result of an act of any hostile foreign force;

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. A physical lesion is not required.

(1) Treatment of the wound will be documented in the member's medical and/or health record.

(2) Award may be made for a wound treated by a medical professional other than a medical officer provided a medical officer includes a statement in the member's medical record that the severity of the wound was such that it would have required treatment by a medical officer if one had been available to provide treatment.

(3) A medical professional is defined as a civilian physician or a physician extender. Physician extenders include nurse practitioners, physician assistants, and other medical professionals qualified to provide independent treatment (to include Special Forces medics). Medics (such as combat medics – military occupational specialty 68W) are not physician extenders.

(4) A medical officer is defined as a physician with officer rank. The following are medical officers:

(a) An officer of the medical corps of the Army.

(b) An officer of the medical corps of the U.S. Navy.

(c) An officer in the U.S. Air Force designated as a medical officer in accordance with Title 10, United States Code, section 101.

d. Examples of enemy-related injuries which clearly justify award of the Purple Heart are as follows:

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

(2) Injury caused by enemy-placed trap or mine.

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

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

(5) Concussion injuries caused as a result of enemy-generated explosions.

(6) 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.

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

- Frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951)
- 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

//NOTHING FOLLOWS//