

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 May 2024

DOCKET NUMBER: AR20230011737

APPLICANT REQUESTS: her deceased father, a former service member (SM) be awarded the Purple Heart. She also requests a personal appearance by video or phone.

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Letter
- Applicant's Birth Certificate
- SM's Death Certificate
- SM's WD AGO Form 53-55 (Enlisted Record and Report of Separation – Honorable Service)

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 her father was receiving a monthly disability/pension from the Army due to receiving injuries during active duty in WWII. He told his family members that he received injuries on the backs of both legs due to a hand grenade. Her brother (a Veteran of the Vietnam War) remembers their father had a Purple Heart in a metal box with a copy of his discharge paper. Unfortunately, many of the awards or paperwork he received was either taken from him or lost. He did receive follow-up care at the Veterans Hospital in both Vancouver Washington and Portland Oregon. She wants her father's military record to be whole. The Purple Heart is more meaningful than any other award he received. Her family honors his sacrifices all those years ago, but it is important that his record reflects all that he sacrificed. She has been working to verify her father's military record. Last year, she submitted documents to obtain any records available. She received a copy of his separation/discharge form. In addition, she received several awards that he was entitled. She recently reviewed the separation document and awards with her brother, a Vietnam Veteran. They found that one award is missing.

3. The SM's military records are not available to the Board for review. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center in 1973. It is believed that his records were lost or destroyed in that fire. However, there were sufficient documents remaining in a reconstructed record, provided by the applicant, for the Board to conduct a fair and impartial review of this case.

4. The SM's WD AGO Form 53-55 shows he was inducted into the Army of the United States and entered active duty on 5 August 1941. At the time of separation:

- He held military occupational specialty 531, Truck Driver
- He was assigned to Service Company, 161st Infantry

5. He departed the continental United States (CONUS) on 17 December 1941 and arrived in the Pacific Theater of Operations (PTO) on 24 December 1941. He departed the PTO on 25 December 1944 and arrived back in CONUS on 7 January 1945.

6. He was honorably discharged for the convenience of the Government – demobilization on 19 July 1945 after completing 10 months and 20 days of continental service and 3 years and 21 days of foreign service. His WD AGO Form 53-55 also shows in:

- Item 31 (Military Qualifications and Date) shows the Marksman badge with Rifle Bar and Sharpshooter Badge with Pistol Bar
- Item 32 (Battles and Campaigns), he participated in the Guadalcanal and Northern campaigns.
- Item 33 (Decorations and Citations), he was awarded the Asiatic-Pacific Theater Service Medal, Good Conduct Medal, and American Defense Service Medal
- Item 34 (Wounds Received in Action), the entry "None."

7. There is no evidence in the SM's available record that shows the SM incurred a wound or injury that meets the criteria for award of the Purple Heart. There are no medical documents available or provided by the applicant.

8. Hospital admission records for World War II Veterans are normally maintained by the Office of The Surgeon General, and if applicable and when available, show the type of injury (battle, non-battler, illness, disease) the Veteran received.

9. 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.

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 former servicemember’s (SM) record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant’s petition and the form SM available military records the Board there is no medical record showing the applicant received wounds caused by enemy forces that required treatment by medical personnel. There is no medical record showing the SM received wounds caused by enemy forces that required treatment by medical personnel.

2. 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. 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. The Board found the former SM did not meet the criteria for award of the Purple Heart and relief was denied.

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):

The SM served a qualifying period of service for additional awards. As a result, amend his WD AGO Form 53-55 to show:

- World War II Victory Medal
- 2 bronze service stars to be affixed to his already awarded Asiatic-Pacific Theater Service Medal,

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 15-185 (ABCMR) 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, which is that what the Army did was correct. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. 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 or request additional evidence or opinions. Additionally, 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.

3. The Purple Heart was established by General George Washington at Newburgh, NY on 7 August 1782 during the Revolutionary War. It was reestablished by the President of the United States per War Department General Orders Number 3 in 1932. It was awarded in the name of the President of the United States to any member of the Armed Forces 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 after 5 April 1917, died or sustained wounds as a result of hostile action. Effective 19 May 1998, award of the Purple Heart is limited to members of the Armed Forces of the United States.

4. Army Regulation 600-8-22 (Military Awards) states:

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. 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 mine or trap; injury caused by enemy released chemical, biological, or nuclear agent; injury caused by vehicle or aircraft accident resulting from enemy fire; and/or concussion injuries caused as a result of enemy generated explosions. The Purple Heart is not awarded for mental illnesses, even if the onset of such an illness occurs in a combat theater.

b. The World War II Victory Medal is awarded for service between 7 December 1941 and 31 December 1946, both dates inclusive.

c. A bronze service star is worn on the appropriate service ribbon, to include the Asiatic-Pacific Theater Service Medal, for each credited campaign.

5. The Office of the Surgeon General files (commonly referred to as the SGO files), a health record research project, involved transposing hospital admission card data from the periods of World War II and the Korean Conflict onto magnetic tape. In 1988, the National Research Council made these tape files available to the National Personnel Records Center (NPRC). It was widely believed that these tapes would become a valuable substitute for the records lost in the NPRC fire of 1973. The best available estimation of the completeness of this project is that it captured at least 95 percent of all combat casualty hospital admissions.

//NOTHING FOLLOWS//