

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 June 2024

DOCKET NUMBER: AR20230011750

APPLICANT REQUESTS: in effect, reconsideration to be awarded the Purple Heart.

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

- Applicant's statements
- Applicant's Congressional Privacy Release Form for Veterans Casework
- U.S. Army Human Resources Command (HRC) Awards and Decorations letter to Congress, 30 January 2023
- Congressional letter to applicant, 16 February 2023
- Additional applicant statement
- DA Form 4187 (Personnel Action), 1 August 2023
- HRC Purple Heart extract

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 AR20120002153 on 7 August 2012.

2. The applicant states:

a. He deployed to Vietnam in 1967 and he was still there in 1968. He participated in the Tet Offensive in January 1968. He was assigned to the 82nd Airborne Division at the time. He was part of a long-range patrol that was attached to the Special Forces. His unit worked in teams of six to twelve men. On 30 January 1968 his unit participated in the Tet Operation where they jumped out of helicopters into a Sue' Valley where he was injured. "My right leg was shot in my right leg and had shrapnel in my leg." It took them a week to evacuate him to the medical treatment at Danang. Then he was transported to Camp Zumma Japan where he was treated for a bone infection because it took so long to evacuate him. He was there about three months before he was sent to the Philippians Clark Airbase before he was transported to Alaska. He was then transported to great Lakes Naval Hospital where he was in traction for one year. He was in a wheelchair for six months before he was able to walk on crutches. He had to use

crutches for three years. Then he was issued walking sticks for four years. Then he was sent to rehabilitation for the next 15 years.

b. His commander was killed during this jump. He recalls his name was Captain S_. There was a Staff Sergeant R_ killed, and they named a camp after him due to his efforts. Colonel (COL) E_W_ also served in Vietnam as a COL in the Army Special Forces. He was there during the time the applicant was there as well. He did try to locate other veterans that he served with in Vietnam for buddy statements, but unfortunately he had no luck finding them and was told that they had passed away.

c. He feels the reason he may have not been recommended for an award was because his commander was killed during the Tet Defense in A Sue' Valley. He was informed while he was receiving medical treatment that the company commander and most of his unit was killed and he was lucky that he survived. His DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) showed that he was wounded.

3. A review of the applicant's available official records show the following:

a. He was inducted into the Army of the United States on 19 September 1967 and served in Military Occupational Specialty 11B (Light Weapons Infantryman) while serving in Vietnam from 28 May to 23 October 1968.

b. On 5 October 1968, U.S. Army Republic of Vietnam Form 130-R (U.S. Army Vietnam Casualty Report Format) states, the applicant was on bunker guard and his weapon accidentally discharged and injured him in the right ankle. The incident occurred on 3 October 1968.

c. On 10 April 1969, he was released from active duty and placed on the Temporary Disability Retired List the following day. His DD Form 214 does not list the Purple Heart.

d. The applicant's record is void of orders awarding him the Purple Heart.

e. His name is not listed on the Vietnam casualty roster, and a review of the Awards and Decorations Computer-Assisted Retrieval System (ADCARS), an index of general orders issued during the Vietnam era between 1965 and 1973 maintained by the Military Awards Branch of the United States Army Human Resources Command, failed to reveal any orders for award of the Purple Heart.

f. On 7 August 2012, ABCMR Record of Proceedings Docket Number AR20120002153 shows the Board members voted unanimously to deny the applicant's request to be awarded the Purple Heart. In relevant part, the Board stated, the evidence

shows he was injured on 3 October 1968 in Vietnam when his weapon accidentally discharged and struck him in his right ankle, not as a result of hostile action.

4. In support of his case the applicant provides:

a. Applicant's Congressional Privacy Release Form for Veterans Casework dated 15 December 2022, wherein, he reiterates his contentions described above.

b. HRC, Chief Awards and Decorations Branch letter to Congress dated 30 January 2023, which states, they remain unable to authorize issuance of the Purple Heart to the applicant based on the ABCMR's denial on 7 August 2012.

c. Congressional letter to applicant dated 16 February 2023, which informed the applicant that the Department of the Army could not award him the Purple Heart.

d. DA Form 4187 dated 1 August 2023, which reiterates his contentions.

e. HRC Purple Heart extract, which states, the following examples of injuries or wounds "clearly do not" justify award of the Purple Heart:

(1) Accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action.

(2) Self-inflicted wounds, except when in the heat of battle and not involving gross negligence.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The applicant's service record contains a U.S. Army Republic of Vietnam Form 130-R (Casualty Report), dated 5 October 1968, that states, the applicant was on bunker guard and his weapon accidentally discharged and injured him in the right ankle. The incident occurred on 3 October 1968. By regulation, accidents, to include explosive, aircraft, vehicular, and other accidental wounding, not related to or caused by enemy action; do not qualify for award of the Purple Heart.

b. The applicant contends he was also wounded on 30 January 1968 when his unit participated in the Tet Operation where they jumped out of helicopters into a Sue' Valley where he was injured. He contends his right leg was shot and had shrapnel in his leg. The applicant's statement is not in question; however, the Board found no evidence in

the record, and the applicant does not provide the documentary evidence of this injury or medical records that confirm his contended injury required treatment and/or the medical treatment has been made a matter of official record. The Board determined there is insufficient evidence to award him the Purple Heart for the injury he describes.

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:

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 to amend the decision of the ABCMR set forth in Docket Number AR20120002153 on 7 August 2012.



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. Army Regulation (AR) 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. In pertinent part, it states that 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 will decide cases based on the evidence of record. It is not an investigative agency.

2. AR 600-8-22 (Military Awards) implements a part of the Army Awards Program. It prescribes Department of the Army policy, criteria, and procedures for individual and unit military awards and foreign decorations and badges.

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 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. When contemplating an award of this decoration, 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 the award.

c. The Purple Heart is awarded to any member of an Armed Force of the United States under the jurisdiction of the Secretary of the Army who, after 5 April 1917, has been wounded, killed, or who has died or may hereafter die of wounds received under any of the following circumstances: (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 the result of an act of any such enemy or opposing armed force. (5) As the result of an act of any hostile foreign force.

c. Appendix C (Department of Defense Awards and Decorations Procedures), paragraph C-3c (Purple Heart) states, in pertinent part, some examples of injuries that do not justify eligibility for the Purple Heart are as follows:

- Accidents, to include explosive, aircraft, vehicular, and other accidental wounding, not related to or caused by enemy action; and
- Self-inflicted wounds, except when in the heat of battle and not involving gross negligence

//NOTHING FOLLOWS//