

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 May 2024

DOCKET NUMBER: AR20230011766

APPLICANT REQUESTS: award of the Purple Heart for his grandfather, a deceased former service member (SM).

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

- DD Form 149 (Application for Correction of Military Record)
- Western Union Telegram, 25 July 1918
- Final Payroll of 7th Company, 2nd Transportation Battalion, 159th D. Brigade, covering the period from 1 January 1919 - 1 February 1919
- SM's Certification of Military Service
- applicant's birth certificate, dated 14 August 1945
- Power of Attorney, 16 February 1973

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 SM's complete military service record is not available to the Board for review. A fire destroyed approximately 18 million service members' records at the National Personnel Records Center (NPRC) in 1973 and his records were potentially among those affected by the fire. His case is being considered using the available evidence.
3. The applicant states:
  - a. The SM was wounded in action on 15 July 1918, as stated in a telegram dated 15 July 1918, from the unit Adjutant General to Mrs. E\_\_\_\_ S\_\_\_\_, his next of kin. As far as the applicant knows, the SM was never awarded a Purple Heart. As his grandson, the applicant is requesting award of the Purple Heart to the SM.

b. The NPRC was not able to furnish a copy of a DD Form 214 (Certificate of Release or Discharge from Active Duty), which was apparently lost in the records center fire. They did furnish a Certification of Military Service, a copy of which he has enclosed.

c. The applicant is unable to verify if his grandfather received care from a medical officer or not, but because his wound warranted a telegram to the next of kin, it was probably serious enough to require medical treatment. The SM's wound was directly the result of enemy action.

3. A Certification of Military Service shows the SM entered active duty the U.S. Army on 18 September 1917.

4. A Western Union Telegram, dated 25 July 1918 addressed to Mrs. S\_\_\_\_\_ in Missouri (MO), from the Adjutant General shows he deeply regretted to inform her that it was officially reported that the SM, Corporal H\_\_\_\_\_ H. S\_\_\_\_\_ Jr., Infantry, was slightly wounded in action on 15 July. The Department had no further information.

5. A Final Payroll of 7th Company, 2nd Transportation Battalion, 159th D. Brigade, covering the period from 1 January 1919 through 1 February 1919, shows the initials. H.H.S. (presumed to be the applicant), corporal, from Clayton, MO, enlisted on 18 September 1917, for one period, left the U.S. on 7 April 1918 and arrived in the US. on 8 January 1919. He was last paid to include 31 May 1918.

6. A Certification of Military Service shows the FSM was honorably discharged from active duty in the U.S. Army on 1 February 1919, in the rank of corporal.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. The available record consists of a Western Union Telegram, dated 25 July 1918 addressed to Mrs. S\_\_\_\_\_ in MO, shows the Adjutant General deeply regretted to inform her that it was officially reported that the SM was slightly wounded in action on 15 July. The Department [of the Army] had no further information.

b. Because the Purple Heart was not reestablished until 1932, retroactive award consideration is currently described in Army Regulation 600-8-22. The NPRC awards the Purple Heart to any member of the Army who, during World War I, was awarded a Meritorious Service Citation Certificate signed by the Commander in Chief, American Expeditionary Forces, or who was authorized to wear wound chevrons, upon written application. While the Western Union Telegram shows he was wounded, it is unclear if

he received either one of the other mentioned awards/chevrons. That being said, while there is no Discharge Document to update or currently a personnel record to file it in (burned/destroyed record), the Board determined that the Telegram is sufficient to produce a (retroactive) Purple Heart certificate for inclusion in the record. Whether he was awarded it or not, without a record, it will not be a duplicate.

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 partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by issuing the former service member a certificate reflective of award of the Purple Heart for wounds received in action on 15 July 1918.

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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 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:

(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 Purple Heart 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) 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 im-paired 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 as follows:

(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 being made to deserving personnel. Commanders must take into consideration the circumstances surrounding a wound.

3. Army Regulation 15-185 (Army Board for Correction of Military Records (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. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//