

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 May 2024

DOCKET NUMBER: AR20230011947

APPLICANT REQUESTS: in effect, award of the Purple Heart.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement

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 that during the TET Offensive he was assigned to the quick reaction force (QRF) as a machine gunner for the Long Binh Post. While jumping from a M35 he broke his left ring finger again and received a cut above his wrist. The initial treatment for the first break of his finger was done at the 193d or 194th hospital with a follow up at the 123d Evacuation Hospital. The second injury was treated by a squad medic, who also removed foreign material from his lower left leg.
3. The applicant's records contain sufficient evidence to support additional awards not shown on his DD Forms 214 (Armed Forces of the United States Report of Transfer or Discharge), for the periods ending 14 March 1969, 22 October 1970, 18 July 1973, and 30 September 1988 and will be listed in the administrative notes. The Board will consider his request for award of the Purple Heart.
4. A review of the applicant's service record shows:
 - a. He enlisted in the Regular Army on 15 March 1966.
 - b. His DA Form 20 (Enlisted Qualification Record) shows in:

- item 31 (Foreign Service): service in Vietnam from 14 June 1967 to 7 June 1968
- item 38 (Record of Assignments): he was assigned to AG Co., USARV, USARPAC-RVN from an illegible date in July 1967 to 7 June 1968
- item 39 (Campaigns): Vietnam Counteroffensive Phase III, TET Counteroffensive, and Vietnam Counteroffensive Phase IV
- item 40 (Wounds): no entry

c. On 14 March 1969, he was discharged from active duty with an honorable characterization of service. His DD Form 214 shows he completed 3 years of active service and 11 months and 24 days of foreign and/or sea service. He was awarded:

- Expert Marksmanship Qualification Badge with Rifle Bar
- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- two overseas service bars

d. On 17 September 1970 he reenlisted in the Regular Army.

e. On 22 October 1970, he was discharged from active duty for immediate re-enlistment with an honorable characterization of service. His DD Form 214 shows he completed 1 month and 6 days of active service. He was awarded:

- National Defense Service Medal
- Vietnam Service Medal
- Vietnam Campaign Medal
- two overseas service bars
- Army Commendation Medal
- Republic of Vietnam Counteroffensive Phase III
- TET Counteroffensive
- Republic of Vietnam Counteroffensive Phase IV

f. On 23 October 1970 he reenlisted in the Regular Army.

g. Letter Orders Number A-07-46, issued by Headquarters, The School Brigade USAIS on 16 July 1973 ordered him to active duty as a commissioned officer, effective 19 July 1973.

h. On 18 July 1973, he was discharged from active duty to accept commission as an officer. His DD Form 214 shows his characterization of service as honorable and that he completed 2 years, 10 months, and 2 days of active service.

i. DA Form 71 (Oath of Office) shows he was appointed as a second lieutenant on 19 July 1973.

j. On 30 September 1988, he was retired from active duty with an honorable characterization of service. His DD Form 214 shows he completed 15 years, 2 months, and 12 days of active service. He was awarded:

- Vietnam Campaign Medal
- Overseas Service Medal (3rd Award)
- Army Service Ribbon
- Armed Forces Reserve Medal
- Vietnam Service Medal
- National Defense Service Medal
- Good Conduct Medal
- Meritorious Unit Commendation
- Army Commendation Medal (5th Award)
- Meritorious Service Medal (2nd Award)

6. The applicant's record does not contain orders for the Purple Heart or any medical records indicating he sustained any injuries.

7. On 13 May 2024, U.S. Army Human Resources Command (HRC) responded to a request for information stating that their records do not indicate that the applicant was awarded the Purple Heart.

8. His name is not shown on the Department of the Army Office of the Adjutant General Casualty Division Casualty Reference Name Listing for the period 1 January 1961 through 30 June 1973, a battle and non-battle listing of Soldiers who were killed, wounded, sick, captured, or missing during their service in Vietnam.

9. Regulatory guidance provides that there are three basic criteria for award of the Purple Heart: The Soldier must have been wounded as a result of hostile enemy action; the wound must have required treatment by medical officer; and the medical treatment must have been made a matter of official record.

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 Board carefully considered the applicant's record of service and executed a comprehensive review based on law, policy, and regulation. The Board determined 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. The Board did not find documentary evidence that clearly or explicitly shows criteria for award of the Purple Heart. Based on the evidence, the Board determined the applicant does not meet the criteria for award of the Purple Heart.

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 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:

The applicant's service records contain evidence substantiating the following administrative corrections to the applicant's DD Forms 214 without Board action by adding the following awards:

- three bronze service stars to his previously issued Vietnam Service Medal
- Republic of Vietnam Gallantry Cross with Palm Unit Citation

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. It provides that the Purple Heart is awarded for a wound sustained 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 a medical officer, and the medical treatment must have been made a matter of official record.

a. 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.

b. Examples of injuries or wounds which clearly do not justify award of 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) Chemical, biological, or nuclear agents not released by the enemy.
- (6) Battle fatigue.
- (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) Post traumatic stress disorders.
- (11) Airborne (for example, parachute/jump) injuries not caused by enemy action.
- (12) Hearing loss and tinnitus (for example: ringing in the ears).
- (13) 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.
- (14) Abrasions and lacerations (unless of a severity to be incapacitating).
- (15) Bruises (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).
- (17) First degree burns.

3. Department of the Army Pamphlet 672-3 (Unit and Campaign Participation Credit Register) shows:

a. Department of the Army General Orders 8, dated 1974, announced award of the Republic of Vietnam Gallantry Cross with Palm Unit Citation for service in Vietnam to

the Headquarters, United States Army Vietnam, and its subordinate units during the period 20 July 1965 to 28 March 1973.

b. A bronze service star is worn on the appropriate service ribbon, to include the Vietnam Service Medal, for each credited campaign. During his service in Vietnam, the applicant participated in the following 3 campaigns:

- Vietnam Counteroffensive, Phase III, 1 June 1967 – 29 January 1968
- TET Counteroffensive, 30 January 1968 – 1 April 1968
- Vietnam Counteroffensive Phase IV, 2 April 1968 – 30 June 1968

//NOTHING FOLLOWS//