

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 July 2024

DOCKET NUMBER: AR20230012361

APPLICANT REQUESTS: award of the Purple Heart

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) covering the period ending 30 January 1970
- Department of Veterans Affairs (VA) cover letter, dated 6 September 2023

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 he is requesting award of the Purple Heart due to a helicopter accident in 1968 that injured his back. He currently has a service-connected disability rating from the VA for that injury. The correction should be made because he was wounded while serving in the military.
3. The applicant enlisted in the Regular Army on 2 February 1967, and was awarded the Military Occupational Specialty (MOS) 11B (Infantryman).
4. The applicant's DA Form 20 (Enlisted Qualification Record) shows:
 - a. Item 31 (Foreign Service) shows he received foreign service credit in Vietnam from 1 December 1967 to 30 November 1968. The end date conflicts slightly with his Vietnam service dates as reflected in item 38 below (Record of Assignments). Note, the period from December 1967 through November 1968 encompasses four campaigns.
 - b. Item 38 (Record of Assignments) shows his conduct and efficiency were consistently rated excellent, except for his period of hospitalization, where his conduct and efficiency ratings were unknown.

(1) he was assigned to Company B, 3rd Battalion (Airborne), 187th Infantry Regiment from 3 December 1967 to 6 June 1968, where he served in MOS 11B.

(2) he was a patient at the 93rd Evacuation Hospital, U.S. Army Pacific (USARPAC), from 7 June 1968 through 14 June 1968.

(3) he returned from the hospital and was again assigned to Company B, 3rd Battalion (Airborne), 187th Infantry Regiment from 3 December 1967 until 19 August 1968, when he departed Vietnam, and was reassigned with his next unit at Fort Bragg, NC, on 20 August 1968.

(4) Note, the period from December 1967 through August 1968, encompasses four campaigns.

Item 31 (Foreign Service) shows he arrived in USARPAC (Vietnam) on 1 December 1967 and departed on 30 November 1968, conflicting slightly with his Vietnam service dates as reflected in item 38 above. Note, the period from December 1967 through November 1968 encompasses four campaigns.

b. Item 41 (Awards and Decorations) shows he was awarded or authorized:

- National Defense Service Medal
- Parachutist Badge
- Vietnam Service Medal
- Combat Infantryman Badge
- Vietnam Campaign Medal with Device (1960)
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)

5. A U.S. Army Vietnam (USARV) Form 130-R (U.S. Army Casualty Report Format) shows:

a. This form was to be submitted on all non-hostile minor injuries. Used only to insure submission of complete information telephonically or electronically in standard sequence for hostile casualties, seriously ill, missing, and death reports.

b. The type of report submitted was a non-battle injury (NBI) to the applicant on 24 February 1968, resulting in a right hand laceration.

c. The circumstances show at Bein Hoa, there was a helicopter power failure.

d. The applicant's next of kin were notified.

6. The applicant's DD Form 214 shows:

a. He was honorably released from active duty at his expiration term of service (ETS) on 30 January 1970, and transferred to the U.S. Army Reserve (USAR) Control Group (Reinforcement).

b. He was credited with 2 years, 11 months, and 28 days of net active service, including 1 year of foreign service in USARPAC.

c. He was awarded or authorized:

- National Defense Service Medal
- Parachutist Badge
- Vietnam Service Medal
- Vietnam Campaign Medal with Device (1960)
- Combat Infantryman Badge

9. The Vietnam Casualty Roster does not include the applicant's name.

10. U.S. Army Reserve Components Personnel and Administration Center Letter Orders Number 01-1014894, dated 17 January 1973, honorably discharged the applicant from the USAR Control Group (Standby) effective 1 February 1973, due to ETS.

11. While the applicant's USARV Form 130-R reflects he incurred in a non-battle injury to his right hand on 24 February 1968, while in Vietnam when his helicopter experienced a power failure, there is no evidence of record the wound was the result of hostile action.

BOARD DISCUSSION:

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

a. Purple Heart: Deny. 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 applicant served in Vietnam from 3 December 1967 until 19 August 1968. His service record contains a USARV Form 130-R (U.S. Army Casualty Report Format) that shows he sustained a non-battle injury on 24 February 1968, resulting in a right

hand laceration. Regrettably, such injury does not qualify for award of the Purple Heart. The Board found no evidence he was injured as a result of hostile action, or he required medical treatment for any hostile injury. Therefore, the Board determined he does not meet the criteria for award of the Purple Heart.

b. As a related award, although not specifically requested, the Board noted that the applicant served continuously on active duty from 2 February 1967 to 30 January 1970 completing a total of 2 years, 11 months, and 28 days of continuous active duty service. He received excellent conduct and efficiency ratings. His record does not reflect any lost time or any derogatory information that would have disqualified him from receiving his first award of the Army Good Conduct Medal, or a commander’s disqualifying memorandum for this award. The Board determined he met the criteria to be awarded the Army Good Conduct Medal (1st Award).

2. 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.

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:

1. In addition to the correction addressed in Administrative Note(s) below, 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:

- awarding the applicant the Army Good Conduct Medal (1st Award) for service during the period 2 February 1967 through 30 January 1970
- adding award of the Army Good Conduct (1st Award) to his DD Form 214

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to awarding him the Purple Heart

[REDACTED]

[REDACTED]

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): A review of the applicant's DD Form 214 covering the period ending 30 January 1970, shows it should be corrected at item 24 (Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded or Authorized) by removing the Vietnam Service Medal and adding the:

- Presidential Unit Citation
- Valorous Unit Award
- Meritorious Unit Commendation
- Vietnam Service Medal with four bronze service stars
- Sharpshooter Marksmanship Qualification Badge with Rifle Bar (M-16)
- Republic of Vietnam Gallantry Cross with Palm Unit Citation
- Republic of Vietnam Civil Actions Honor Medal, First Class (FC)

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) implements the Army Awards program and 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 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. The Army Good Conduct Medal is awarded to individuals who distinguish themselves by their conduct, efficiency, and fidelity during a qualifying period of active duty enlisted service. This period is 3 years except in those cases when the period for the first award ends with the termination of a period of Federal military service. Although there is no automatic entitlement to the Army Good Conduct Medal, disqualification must be justified.

d. One bronze service star will be awarded for wear on the Vietnam Service Medal for participation in each credited campaign.

3. Department of the Army Pamphlet 672-3 (Unit Citation and Campaign Participation Credit Register) lists the awards received by units serving in Vietnam and provides a list of campaigns for the Vietnam conflict. It shows the 3rd Battalion, 187th Infantry Regiment was awarded:

- the Presidential Unit Citation for the period 13 June 1968 – 23 September 1968, in Department of the Army General Orders Number 38, dated 1971
- the Valorous Unit Award for the period 16 March 1968 – 22 March 1968, in Department of the Army General Orders Number 22, dated 1976
- the Meritorious Unit Commendation for the period 14 March 1968 – 3 October 1968, in Department of the Army General Orders Number 22, dated 1976
- the Republic of Vietnam Gallantry Cross with Palm Unit Citation for the period 19 July 1968 – 14 May 1969, in Department of the Army General Orders Number 34, dated 1970
- Republic of Vietnam Civil Actions Honor Medal, First Class (FC) for the period

3 October 1968 – 2 May 1970, in Department of the Army General Orders
Number 48, dated 1971

//NOTHING FOLLOWS//